

AN
ILLUSTRATION
OF

Mr. *Daniel Neal's*

HISTORY of the

PURITANS,

In the ARTICLE of

Peter Smart, A. M.

Prebendary of DURHAM, prosecuted
for preaching a vile Sermon, in the Ca-
thedral there, July 27. 1628.

From Original Papers, with Remarks

DURHAM,

Printed by J. ROSS, MDCCXXXVI

High Commissioner & Consul General

ILLUSTRATION

OF

Mr. Daniel Neale

HISTORY of the



In the ARTICLE of

Rev. Samuel A. M.

Secretary of DURHAM, presented
to the Society of the Clergy in the City
of Durham, July 27. 1828.

Printed by J. ROSS, M.D.C.C.XXVI.

DURHAM, A.M.

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P R E F A C E

TIs a Duty incumbent upon all Men, to vindicate the Honour, and protect the injur'd Memory of the Dead; had that been Mr. NEAL's sole Motive, in his voluminous Undertaking, these Papers should have remained in the Obscurity of the Editor's Study, where they have rested near Thirty Years; but now appear to do Justice, both to Mr. Neal's Peter Smart; as also, to that Cathedral, in which he was an unworthy Prebendary; but chiefly to Dr. COSIN, afterwards justly rewarded for his Sufferings, by the villainous Instigation of Smart, upon the Revival of Christianity, at the Restoration of Monarchy and Episcopacy to the English Nation.

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An ILLUSTRATION of Mr. NEAL's
Puritanical History, &c.

MR. Neal, in his voluminous History of the Puritans, instead of giving the History of the Men, has generally done little more than bring together such Heaps of Scandal, as his Number of mutinous Malecontents had utter'd against the best established Protestant Church in Europe, and She the known Bulwark of Protestantism itself, in direct Defiance of many judicious Laws then in Force, all or most whereof, are yet in Being.

To countermine any secret or sinister Attempts, I hope, by rectifying his borrow'd short Account of Mr. Smart, from Fuller's Church-History, without the Sincerity of acknowledging Mr. Fuller's Honourable Recantations, or Dr. COSIN's Answer to Fuller's Church History, published by Dr. Heylin, in his Examen Historicum: All which shall appear in what follows, to set Mr. Neal's Veracity in it's best Light, by publishing the

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Corr-

Commission granted by King CHARLES the First to the Province of York, together with the Proceedings of that Branch of the High Commission, which acted at Durham: Also, shall be rectify'd several of Mr. Smart's own Falshoods, contained in his Informations to that House of Commons, who had set him at Liberty; and afterwards, at his Instigation impeach'd Dr. GOSIN; but upon the Dr's. Answer to their Articles, which we publish below, in Order of Time, I fear he lost much of his Credit in that House.

The other several Papers and Letters which follow in Course, are so many authentick Evidences, from which no small Light will appear, even to cursory Readers.

PETER SMART was the Son of a Clergyman in Warwickshire, a Butler in Broad-gates-Hall, in Oxford, and afterwards elected Student of Christ Church, where he first became acquainted with Dr. William James, Dean of Christ Church, who in 1596, had the Deanery of Durham conferred upon him by Queen Elizabeth, who while he was Dean, transplanted Mr. Smart from Christ Church, to the Grammar School at Durham, of the Presentation of the Dean and Chapter. In the Year 1606, Dr. James

James was made Bishop of Durham, who soon after advan'd Mr. Smart to be One of his Chaplains; and in 1609, presented him the Sixth Prebend in the Cathedral of Durham, and the Rectory of Bolden or Boldovers. In the Year 1614, he was removed from the Sixth to the Fourth Prebend; and had no further Advance, his Patron, Bishop James, surviving that Remove little above 3 Years. The first publick Affair I can find him engaged in, is the High-Commission, granted for the Province of York 1625, the first Year of the Reign of King CHARLES; but tho' he qualified himself according to Law, at the Second Assembly of the Commissioners; yet he Seldom honour'd the Courts with his Presence, and Subscribed only one Sentence: Upon a Renewal of the Commission, Anno 1627, he again qualified himself the beginning of October, within Ten Months of the unhappy Day he preach'd that base Sermon, whose repeated withdrawing himself for several Years from the Sacrament in the Cathedral, is a strong Proof of his being Puritanically dispos'd of Old. I have one convincing Evidence under his Wife's own Hand, in a Letter to her Husband, Anno 1632. —

“ And I doe not doubt, deere Husband, but
 “ both you and I, as we be written in the
 Book,

"Book of Life, so we shall enjoy the Same
 "everlastingly". Her Character of him after-
 wards, in the same Letter, paints out Mr.
 Neal's Grave and Reverend Mr. Smart in live-
 ly Colours. — "But your bitter Words be-
 fore the Commission, and other great Men did
 "undo you, you were so impatient." —
 I find it proper to enlarge upon the Proceed-
 ings against him at Durham, but having nei-
 ther of the Commissions of 1625 or 1627, hope
 the third of 1629, will Sufficiently attest the
 Validity of that Court, the Crown being en-
 1. d. 18. abled by Statutes in the preceeding Reigns, to
 1. c. 11. erect such Courts for the necessary Uses recited
 in the said Commission.

Mr. Smart's Character, and W. Prynne, at
 the Conclusion of his virulent Survey of Dr.
 Cofin's Hours of Prayer, gave Occasion to the
 Convocation of the Province of Canterbury, to
 desire Mr. Smart might be transmitted to Lam-
 beth, where his insolent Behaviour forced the
 Court to exercise some Severities upon him,
 tho' far short of what Justice dictated, or he
 deserv'd; which however, Soften'd him a little,
 so as to petition to be removed to the High
 Commission, sitting at York, where he no
 sooner arrived (in his own Imagination in Tri-
 umph

umph) than he began to domineer, till, upon refusing to answer to Articles exhibited against him, he was justly imprisoned, and afterwards received a due Reward for his excessive Obstinacy, and peculiar Insolence, in the Sentence pronounced against him of Degradation, Deprivation of all Ecclesiastical Benefices, and a Fine to his Majesty of 500 l. for which Fine he was imprisoned, in the King's Bench at London, and never paid any Part of it, tho' during his Imprisonment under Pretence of being a persecuted Minister, he amassed above 1000 l. till the House of Commons, by Vote, set him at Liberty, Ann, 1640. and entertain'd him as an Evidence, taking all his Lies to be Sacred Truths ; and thereupon past such Resolves against Dr. CO-SIN alone, unheard, as cannot but Shock any English Man, and thereupon impeach'd the Dr. whose Answer to their Articles, both which we give in due order of time, was so compleat, as not only to blast SMART's Credit in the House of Commons, but also to stop all further Proceedings in the Impeachment. I cannot find the exact Day when SMART dub'd himself a Hyper Puritan, by taking the Solemn League and Covenant, we may be sure it was done by the Direction of his Advocate Mr. ROUSE, who at presenting the Articles of Im-

Impeachment called him a Protomartyr : I find him at London in 1646, and 1648, and leave his Transactions in those times to the Papers, and his own Letters following. I find only by Report of old Persons, yet living, that after coming into the North, he lived some time, and died at Baxter-wood, a Mile distant from Durham, in the Parish of St. Oswald, in that City, the Register of Burials there, and in the contiguous Parish of Witton Gilbert where his Prebendal Lands lay, I have carefully examined, but cannot find him interred at either Place, so am apt to think, that, if he was not buried Somewhere about the dissolved Cathedral, it has been his Fate to be interred in some Field or Yard at, or near, the Place where he died.

In the Athenæ Oxon. Vol. 2. pag, 11. two Sermons of Mr. SMART's are mentioned, preached in the Cathedral at Durham, printed at London and Edinburgh 1640, whereas it's next to impossible they could be uttered in that Cathedral, Prosecution against him for That we have beginning the very Day it was preached, viz. between two and four the same Afternoon.

His Cantus Epithalamicus is too virulent a Libel, to deserve further Notice: 'Tis in Quarto printed 1643, inscribed to the then London Preach-

Preachers, and sham Convocation, alias Assembly of Divines, whom he thus accosts, Quorum ego singularem benevolentiam & liberalitatem sensi in duodecimali captivitate mea, cum miserabili penuria quæ nunquam fuit miserabilior quam hoc instanti tempore, Sensi, inquam & Spero Sensurus Sum tempestivam opem vestram; Saltem commendando causam meam Proceribus regni alijsque magni Concilij Senatoribus.

Mr. Wood mentions his various Poems in Latin and English, which have no more come to the Editor's Hands than to Mr. Wood's: But that he died in 1642, is an apparent Mistake: As to the Character Mr. Wood has of him, the following Papers will best attest the Truth thereof.

King CHARLES's Commission for CAUSES Ecclesiastical, within the Province of York, dated at Westminster the 25 Day of March, in the Fifth Year of his Reign.

CHARLES by the Grace of GOD King of England, Scotland, France and Ireland, Defender of the Faith, &c. To the most Reverend Father in GOD our right trusty and well beloved Councillor, Samuel, L. Archbishop of York, Primate of England and Me-

Metropolitane, and to the Lord Archbishop of York for the time being ; and to our right trusty and right well beloved Councillor, Thomas Lord Coventry, Lord Keeper of our Great Seal of England ; and to the Lord Chancellor of England, and the Lord Keeper of the Great Seal of England for the time being : And to our trusty and right well beloved Cousin and Councillor, Thomas Viscount Wentworth Lord President of the North, and to the Lord President of the North for the time being : And to our trusty and right well beloved Cousins Francis Earl of Cumberland, and William Earl of Derby, and our right trusty and right well beloved Cousins and Councillors Theophilus Earl of Suffolk, and Willam Earl of Exeter : And to our right trusty and right well beloved Cousins John Earl of Clare, Emanuel Earl of Sunderland, and Thomas Viscount Savage : And to the right Reverend Father in GOD John Lord Bishop of Duresme, and to the Lord Bishop of Duresme for the time being ; and to the right Reverend Father in GOD John Lord Bishop of Chester, and Barnabas Lord Bishop of Carlisle, and to the Bishops of Chester and Carlisle for the time being : And to our trusty and right well beloved Henry Lord Clifford,

and

and John Lord Darcy; and to our trusty and right well beloved Councillor John Lord Savile, Baron of Pountney, Comptroller of our Household; and to our trusty and right well beloved Thomas Lord Falconbridge, and Thomas Lord Fairfax Baron of Cambrone; and to the Lord Mayor of the City of York, for the time being; and to our trusty and well beloved the Justices of Assize in our County of York for the time being; Sir Richard Hutton Knight, one of the Justices of our Common Pleas; and to our trusty and well beloved Sir Gervas Clifton, Sir George Booth, and Sir Henry Savile Knights and Baronets; and Sir Ralph Ashton Baronet, the Deans of York and Durham for the time being, the Temporal Chancellor of Durham for the time being; and to our trusty and well beloved Sir Thomas Posthumus Hobby, Sir Henry Slingsby, Sir Randolph Maynewaireing, Sir John Gibson, Sir Arthur Ingram, jun. Sir John Dalston, and Sir George Dalston Knights, our Council at York in Fee, in Ordinary, for the time being; the Deans of Chester, Carlisle, and Rippon for the time being; and to our trusty and well beloved George Butler Esq; one of the Gentlemen of our privy Chamber, Christopher

Wans-

Wansford, Esq; and William Easfall Dr. of the Law; and to the Lord Archbishop of York his Chancellor for the time being; to our trusty and well beloved Edmond Manwareing Batchellor of the Laws, and to the Secretary of our Council in the North for the time being; and to our trusty and well beloved Richard Palmer B. D. Precentor of the Metropolitcal Church of York, and to the Precentor of that Church for the time being; Phineas Hodfoun, D. D. Chancellor of the Metropolitcal Church of York, and to the Chancellor of that Church for the time being; Henry Wickham D. D. Archdeacon of York, and to the Archdeacon of York for the time being; the Chancellors to the Bishops of Durham, Chester and Carlisle for the Time being; our Attorney in the North for the time being; the Archdeacons of Nottingham, East Riding, Cleveland, Durham, Northumberland, Richmond, Carlisle for the time being; and to our trusty and well beloved George Stanhope, Thomas Benson, Charles Odingsfels, Edmond Beadfor, Robert King, Augustine Linsell, Thomas Jackson, Edmund Mafon, Mathew Wren, William Fuller, Robert Newell, Doctors in Divinity, Thomas Kay Clerk Succentor Canonorum, in Ecclesia Ebor. The Recorder
of

of the City of York for the time being; to our trusty and well beloved Philip Ford, Richard Parret, Prebendaries of the Metropolitican Church of York, Robert Morley Esq; Francis Burgoine, Marmaduke Blakiston, Ferdinando Moorcroft, John Robson, William James, Prebendaries of the Cathedral Church of Durham; Clement Holder, Richard Marsh and George Brittain, Prebendaries of the Collegiat Church of Southwell; and to our trusty and well beloved John Bramhall B.D. Subdean of Rippon, Laurence Hinton Clark, Joseph Cradock, A. M. Robert Brookes Clark, John Lively, B. D. Thomas Carre B. D. John Alden, George Murrey, John Teasdale, Owen Stockton, Thomas Searle, Anthony Wilkinson, John Boston, Robert Falcon, Clarks, and Timothy Thurescrosse B. D. and Prebendary of York, Greeting. Whereas in the Parliament Summon'd to be holden at Westminster, the 23d Day of January, in the first Year of the Reign of our dear Sister Queen Elizabeth, late Queen of England, and there prolonged until the 25th Day of the same Month, then and there holden, kept and continued until the Dissolution of the same, being the 8th of May then next following, by one Act then made
and

and established, Intituled An Act restoring to the Crown, the antient Jurisdiction over the State Ecclesiastical and Spiritual, and abolishing all Foreign Power, repugnant to the same; among other things it was established and enacted, that our said late dear Sister Queen Elizabeth, her Heirs and Successors Kings and Queens of this Realm, should have full Power and Authority, and by Virtue of the said Act, by Letters Patents under the Great Seal of England, to Assign, Name, and Authorize, when and as often as the said late Queen, her Heirs and Successors should think meet and convenient, for such and so long Time as should please the said late Queen, her Heirs and Successors such Person or Persons, being natural born Subjects to the said late Queen, her Heirs and Successors, as the said late Queen, her Heirs and Successors should think meet, to exercise, use, occupy, and execute under the said late Queen, her Heirs and Successors, all manner of Jurisdictions, Privileges, Preheminences in any ways touching or concerning any Spiritual or Ecclesiastical Jurisdictions, within these Realms of England and Ireland, or any other the Dominions and Countries of the said late Queen, and to visit, reform, redress, order,

cor-

correct, and amend all such Errors, Heresies, Schisms, Abuses, Offences, Contempts, and Enormities, whatsoever, which by any manner of Spiritual or Ecclesiastical Power, Authority, or Jurisdiction can, or may lawfully be reformed, redressed, ordered, corrected, restrained, or amended, to the Pleasure of Almighty GOD, the Increase of Vertue, and Conservation of Peace and Unity of this Realm: And that such Person and Persons so to be named, assigned, authorized, and appointed by the said late Queen, her Heirs or Successors after the said Letters Patents to him or them made and delivered, as aforesaid, should have full Power and Authority by Vertue of that Act, and the said Letters Patents under the said late Queen, her Heirs and Successors to exercise use, and execute all the Premisses according to the Tenour and Effect of the said Letters Patents, any manner, or Cause to the Contrary in any wise notwithstanding, as by the said late Act amongst other Things more fully and plainly appeareth. We therefore, for Sundry good, weighty, and necessary Causes and Considerations, Us thereunto especially moving, of our mere Motion and certain Knowledge, by Force and

and Virtue, of our Supreme Authority, and Prerogative Royal, and of the said Act, do assign, name and authorize by these Our Letters Patents, under Our Great Seal of England, You the said Lord Archbishop of York, now and for the Time being, the Lord Keeper of the Great Seal of England, and the Lord Chancellor of England, &c.

(Here the Names of the Commissioners are again recited, which we omit)
 or any three or more of you, Whereof You the said L. Archbishop of York, Lord Chancellor or L. Keeper of the Great Seal of England for the time being ; Lord President of the North, Earl of Cumberland, Earl of Derby, Earl of Suffolk, Earl of Exeter, Earl of Clare, Earl of Sunderland, Viscount Savage, Bishops of Durham, Chester, and Carlisle, Lord Clifford, Lord Darcy, Lord Savile Baron of Pountfract, Lord Falconbrige, Lord Fairfax of Camroone, Lord Mayor of the City of York for the time being ; Sir Richard Hutton, the Deans of York and Durham for the time being ; the Justices of Assize in the County of York for the time being; the Temporal Chancellor of Durham for the time being ; the Deans of Chester, Carlisle, and Rippon, William Easdale the Chancellor to the
 Lord

Lord Archbishop of York for the time being ; the Precentor, and Chancellor of the Metropolitall Church of York for the Time being, the Archdeacon of York for the Time being; the Chancellors to the Bishops of Durham, Chester and Carlisle for the Time being, the Archdeacons of Nottingham, East-Riding, Cleveland, Durham, Northumberland, Richmond and Carlisle for the Time being, George Stanhopp, Thomas Benson, Augustine Lindsell, Thomas Jackson, Matthew Wren, Robert Newell, Francis Burgoine, Marmaduke Blakiston, Ferdinando Moorecroft, We Will shall always be One, from Time to Time, and at all Times during Our Pleasure, to exercise, use, occupy and execute under Us, all Manner of Jurisdictions, Privileges, and Preheminences, in any Ways touching or concerning any Spiritual or Ecclesiastical Jurisdiction, within any County, City, Borough or Town, or other Place or Places, exempt or not exempt, within the Province of York, and to visit, reform, redress, order, correct, and amend all such Errors, Heresies, Abuses, Offences, Contempts and Enormities whatsoever, which by any Manner of Spiritual or Ecclesiastical Power, Authority or Jurisdiction, can,
or

or may lawfully be reformed, redressed, ordered, corrected, restrained or amended to the Pleasure of Almighty GOD, the Increase of Virtue, and the Conservation of the Peace and Unity of this Realm : And We give and grant to you, or any such Three or more of You, as is aforesaid, thus by Us named, assigned, authorized, appointed, by Force of our Supreme Authority and Prerogative Royal, and of these our Letters Patents, full Power and Authority by Force of the said Act of Parliament, and of these our Letters Patents from time to time, and at all times during our Pleasure, under Us, to exercise, use and execute all the Premises, according to the Tenour and Effect of these our Letters Patents, any Matter or Cause to the Contrary in any ways notwithstanding. And whereas in the said Parliament one other Act was made and established, Intituled, An Act for the Uniformity of Common Prayer, and Service of the Church, and Administration of the Sacraments : And whereas also in the Parliament holden at Westminster the 12th Day of January in the the first Year of the Reign of the said late Queen, amongst other Things, there was One other Act and Statute made and established, Intituled, An Act

Act for the Assurance of the Queen's Majesty's Royal Power over all Persons Ecclesiastical within her Dominions. And further, whereas in the Parliament of Our said late Queen, begun and holden at Westminster, the 2d Day of April in the 30th Year of her Reign, and there continued until the Dissolution of the Same, amongst other Things there was One other Act and Statute made and established, Intituled, An Act, to reform certain Disorders touching Ministers of the Church. And further, whereas in the Parliament of the said late Queen, holden at Westminster in the 35th Year of her Reign, amongst others Things there were two Acts made and established, the One Intituled, An Act to restrain her Majesty's Subjects in their due Obedience, and the other Intituled, To restrain Popish Recusants to some certain Place of Abode, as by the same several Acts more at large appeareth. And whereas divers seditious and Scandalous Persons do not cease daily to invent, publish, and set forth false Rumours, false Tales and Seditious flanders, not only against Us and the said good Laws and Statutes, but also divers seditious Books and Libels within these our Realms of England and Ireland, and Dominions of Wales, mean-

ing thereby to move and procure Strife, Division, and Dissention amongst our loving and Obedient Subjects, much to the disquieting of Us and our People. And whereas also, in the Parliament holden at Westminster the 29th of March, in the First Year of the Reign of our late dear Father of blessed Memory, of England, France, and Ireland, and of Scotland the 37th, One Act was made and established, Intituled, An Act for the due Execution of the Statutes against Jesuits, Seminary Priests, Recusants, &c. Wherefore We earnestly minding to have the said several Acts before mentioned, to be also duely put in Execution, and such Persons as shall hereafter offend in any thing, contrary to the Tenour and Effect of the said several Statutes, or any of them, to be condignly punished, do by these Presents, give full Power and Authority unto You or any three or more of You, as is aforesaid, from time to time hereafter, during our Pleasure, to enquire as well by the Examination of the Parties themselves, as by Witnesses and all other Ways and Means you can reasonably devise, of all Offences, Contempts, Transgressions and Misdemeanors done and committed, and hereafter to be done and committed.

ted within the said Province contrary to the Tenour and Effect of the said several Acts and Statutes, and every or any of them, and every or any part of them, or any of them. And also in like manner, as is aforesaid, to enquire of all and Singular heretical Enormities, and Offensive Opinions, Seditious Books, Contempts, Conspiracies, private Conventicles, false Rumors and false Tales, Seditious Misbehaviours, Slanderous Books, Libels, Writings, Words, Sayings, published, invented, or set forth, or to be published, invented or set forth hereafter, by any Person or Persons against Us or against any our Magistrates, Officers, or Ministers, or others whatsoever, and contrary to the foresaid Laws or Statutes, or any of them, or contrary to any other Laws or Statutes of this our Realm ordained for the Maintenance of Religion, or tending to the depraving of them, or any of them in any County, City, Burrough, or other Place or Places, exempt or not exempted within the Province of York, and of all and every the Offender or Offenders therein; and all and every the Coadjutors, Councillors, Comforters, Procurers, and Abettors of every, or of any such Offender or Offenders. And further We do give full power and Authority unto you, or any such three

or more of you, as is aforesaid, from time to time, to enquire and Search or apprehend and Imprison by our Messengers, Purlevants, and Officers, or otherwise, as well in all Places exempt as not exempt, within the said Province of York, all and singular Jesuits, Seminary Priests, and all other Popish Priests, obstinate and dangerous Popish Recusants, suspected of Practice against the State, and Sectaries : And likewise all and every such Person and Persons, which have or shall send, or convey, or cause to be sent or conveyed any Child or Children of their own or of any others, or any Person or Persons beyond the Seas to be there kept, taught, and brought up in the Romish Religion, either in any School or Seminary, or in any other Place whatsoever. And also all such as shall send and convey, or cause or procure to be sent and conveyed any Money or other things towards the Relief or Maintenance of any such Child or Children, or of the said Seminaries or Schools themselves, or of any Person or Persons living and abiding in the same. And also to enquire and Search for all manner of Massing Stuff, or other Reliques of Superstition and Popery ; and all manner of Popish and Se-
di-

ditions Books, Libels, and Writings, and all other Books, Pamphlets or Portraitures, offensive to the State, and set forth without sufficient and lawful Authority in that behalf ; and all Makers, Printers, and all wilful Dispersers of such Libels, Portraitures, and Writings, and their and every of their Procurers, Councillors, and the same Books, Libels and Writings to seize, and so to order and dispose of them in your grave Wisdoms and Discretions, as that they may not after serve or be imployed for any such unlawful Use, restoring nevertheless the Materials in such Case, as they may not afterwards be so abus'd. And also all and every such Person and Persons, which shall offend against any Decree or Decrees heretofore made by the high Court of Star-chamber, and now in Force, or hereafter to be made there, for or touching the Reformation of divers Disorders in the printing or uttering of Books, Prophanation of the Sacraments of Baptism and the Lord's Supper and either of them, and all other things and places consecrated and dedicated to Divine Service, digging up of buried Bodies in Church, Chapell, or Church-yards. And further, We do give full Power and Authority unto You, or any
such

such three or more of you, as is aforesaid, from time to time during our Pleasure, as well to hear, order, and determine all and every the Premises, as also in like manner, as is aforesaid to enquire hear, and order, and determine all and singular Enormities, Disturbances, Misbehaviours, Offences, Assaults, Frayes, Quarrels, done or committed, or hereafter to be done or committed in any Church or Church-yard, Chapell or Chapell-yard, or against any Divine Service, or against or upon any Person Ecclesiastical, being lawfully admitted and allowed a Minister of the same, contrary to the Laws and Statutes of this our Realm in any Place or Places exempt or not exempt within the said Province of York. And also in like manner, as is aforesaid, to enquire of, Search out, and send for all and every such Person or Persons dwelling and abiding, or which shall dwell and abide in any part of the said Province of York, in Places exempt or not exempt, which wilfully or obstinately have absented or shall hereafter wilfully or obstinately abstain or absent themselves from the Church, or such Divine Service or Sacraments, as by the Laws and Statutes of this Realm is appointed to be had and used, and them and e-

very

very of them to order, correct, reform, and punish by Centures of the Church, or by other lawful ways or means, as by the said Act for Uniformity of Common Prayer, &c. or by any other Laws Ecclesiastical of this Realm is limited and appointed. And also take Order by your Discretions that the Penalties, and Forfeitures limited by the said Act for Uniformity of Common Prayer, &c. against the Offenders in that behalf, may be duely from time to time levied according to the Forms prescribed in the said Act of Parliament, where any such Offence shall be done, to the Use of Us, and of the Poor of the same Parish, upon the Goods, Lands and Tenements of every such Offenders by way of distress, according to the Limitation and true meaning of the said Statute. And also We do give and grant full Power and Authority unto you, or any such three or more of you, as is aforesaid, from time to time, and at all times during our Pleasure, in like manner, as is aforesaid, to enquire of, Search out, and call before you, all and every such Person and Persons, as shall advisedly maintain or affirm any Doctrine directly contrary or repugnant to any of the Articles of Religion,
which

which only concern the Confession of the true Christian Faith, and the Doctrine of the Sacraments comprized in a Book imprinted and intituled Articles, whereupon it was agreed by the Archbishops and Bishops of both Provinces, and the whole Clergy in the Convocation holden at London, in the Year of our Lord God 1562, according to the Computation of the Church of England, for the avoiding of Diversities of Opinions, and for the establishing of Consent touching true Religion put forth by the said late Queen's Authority. And that if any such Person or Persons being convened before you, or any such three or more of you, as is aforesaid, for any such Matter, shall persist therein, or not revoke his or their Errors, or after such Revocation, eftsóones affirm such untrue Doctrine, then to deprive from all Promotions Ecclesiastical, and Functions in the Church, all and every such Person and Persons so maintaining or affirming and persisting, or so eftsóones affirming, as is aforesaid. And further, We do give full Power and Authority unto you or any such three or more of you as is aforesaid, by Vertue hereof in like manner and Form as is aforesaid to enquire,
hear,

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hear, and determine, and punish all Incests,
Adulteries, Fornications, Symonies, outrageous
Misbehaviours and Disorders in Marriages,
and all other greivous and great Crimes
and Offences, which are punishable or re-
formable by the Ecclesiastical Laws of this
our Realm, committed or done, or here-
after to be committed or done in any Place
exempt or not exempt, within the said
Province of York, according to the Ten-
our of the Laws in that behalf, and accor-
ding to your Wisdoms, Consciences and
Discretions, willing commanding and autho-
rizing You, or any such three or more of
You, as is aforesaid, from Time to Time
hereafter, to use and devise all such good,
lawful, reasonable and convenient Ways
and Means, for the Trying and Searching
out of all the Premisses, and for the Pro-
ceeding therein, as by you, or any such
three or more of you, as is aforesaid, shall
be thought most expedient and necessary;
and upon due Proof thereof had, the Of-
fence or Offences before Specified, or any
of them Sufficiently proved against any Per-
son, or Persons, by Confession of the Party,
or by lawful Witnesses, or by any other
due means before you, or any such three or

more of you, as is aforesaid, shall have full Power and Authority, to order and award such Punishment to every Such Offender, by Fine, Imprisonment, Censure of the Church, or other lawfull Ways, or by all or any of the said Ways, or to take such Order for the redress of the Same, as to the Wisdom and Discretion of you, or any such three or more of you, as is aforesaid, shall be thought meet and convenient.

And further, We do give full Power and Authority to you and every such three or more of you, as is aforesaid, from Time to Time to call before you, or any such three or more of you, as is aforesaid, all and every the Offender or Offenders in any of the Premisses, and also all such as by you, or any such three or more of you, as is aforesaid, shall Seem to be Suspected Persons in any of the Premisses, and every of them to examine upon their Oaths touching every or any of the Premisses, which you shall object against them, and to proceed against them and every of them, as the Nature and Quality of the Offence or Suspicion in that behalf shall require. And also to call all such Witnesses, or any other Person or Persons that can inform you, concerning any
of

of the Premisses, as any three or more of you, as is aforesaid, shall think meet to be called before you, or any Such three or more of you as is aforesaid, and them and every of them to examine, upon their Corporal Oaths for the better Tryal and Opening of the Truth of the Premisses, or any part thereof; and if you or any such three or more of you, as is aforesaid, shall find any Person or Persons whatsoever obstinate or disobedient, either in their Appearances before you, or any such three or more of you as is aforesaid, at your Callings and Commandments, or else in not obeying, or in not accomplishing your Orders, Decrees, or Commandments, or in any thing touching the Premisses, or any part thereof, or any Branch or Clause contained in this Commission, that then you or any such three or more as is aforesaid, shall have full Power and Authority to punish the same Person or Persons so Offending by Excommunication or other Censures Ecclesiastical, or by Fine according to your Discretions, or to commit the same Person or Persons so offending to Ward, there to remain till he or they shall be by you, or any three or more of you, as is aforesaid, enlarged and delivered

or by all or any of the said Means, according to your Discretions. And when any Person shall be convented or prosecuted before you, as is aforesaid, for any of the Causes expressed, at the Instance or Suite of any Person promoting the Office in that behalf, that then you or any such three or more of You, as is aforesaid, shall have full Power and Authority to award such Costs, Expences of Suite, as well to and for the Party that shall prefer and prosecute for the same Office, as against any Party or Parties that shall be convented, according as the Causes shall require, and to you in Justice shall be thought reasonable.

And because there is great Diversity in Persons that are to be called before you, Some of them dwelling far from you, some being Fugitives, and Some to be charged with grievous Crimes and Faults, the speedy redress whereof is most requisite, and therefore more Speedy, effectual, and stricter Process than by your Letters Missive is required in most part of those Causes; We for the better Execution and Furtherance of our Service herein, do give full Power, and Authority unto you, or any such three or more of you as aforesaid, to command,
all

all and every of our Sheriffs, Justices and other Officers and Subjects within the said Province of York, in all Places, as well exempt as not exempt, by your Letters, or other Process, to apprehend, or cause to be apprehended, any Person or Persons, which you shall think meet to be convented before you, to answer to any Matter touching the Premises, or any part thereof, or to take sufficient Bond to our Use, as you or any such three or more of you as is aforesaid, shall by your Letters prescribe for his or their personal Appearance, to be made before you, or any Such three or more of you as is aforesaid, and to attend as appertaineth, and in Case any Person or Persons so apprehended be not able, or will obstinately refuse to give Sufficient Bond and Security to our Use, for his and their personal Appearance before you, or any Such three or more of you as is aforesaid, Then We will that in our Name you or any Such three or more of you, as is aforesaid, give Commandment to Such Mayor, Sheriff, Officer, or other Person under whose Charge he or they so to be convented shall happen to remain, either for the bringing him or them to Ward, or to other Safe Custody, there

there to remain until you or any such three or more of you as is aforesaid, shall take further Order for his or their Inlargement. And further We do give full Power and Authority unto you and every Such three or more of you as is aforesaid, by these Presents, to take and receive by your Discretions of every Offender and Suspected Person to be convented and brought before you, or any such three or more of you, as is aforesaid, a Recognizance or Recognizances, Obligation or Obligations to Our Use in such Sum or Sums of Money as to you or any such three or more of you as is aforesaid, shall seem meet and convenient, as well for their personal Appearance before you, or any such three or more of you, as is aforesaid, as also for the Performance and Accomplishment of such Orders and Decrees, as to you or any such three or more of you, as is aforesaid, shall seem reasonable and convenient in that behalf.

(Sir George Paul, Knight, nominated Register, in whose Absence the Archbishop of York and Bishop of Durham, are impowered to nominate proper Deputies : And Thomas Mottersled appointed Receiver of Fines and Forfeitures.)
And

And that whereas there were divers Cathedral and Collegiate Churches, Grammar Schools, and other Ecclesiastical Corporations erected, founded, and ordained by the late King of famous Memory, King Henry the Eighth, and by the late King Edward the Sixth, and by the late Queen Mary, and the late Lord Cardinal Poole, and also by the late Queen Elizabeth, where there are either no Ordinances, Rules, and Statutes at all, or the same are altogether imperfect, or Some of them made at such Times, as the Crown and Regimen of this Realm, was Subject to Foreign, usurped Authority of the See of Rome, they be in some Points uncertain, contrary, diverse, and repugnant to the Dignity and Prerogative of our Crown, the Laws of this our Realm, and the Present State of Religion, now established within the same, We therefore do give full Power and Authority unto you and to every six or more of you, of whom We will You the aforementioned Lord Archbishop of York, Bishops of Durham, Chester, and Carlisle to be One, to cause and command, in our Name, all and Singular the Ordinates, Rules, and Statutes of all and every the said Cathedral and Collegiate Churches, Grammar Schools, and other Eccle-

clefiastical Incorporations within the Province of York, together with their several Letters Patents, and other Things touching, or in any wise concerning their several Erections and Foundations, to be brought and exhibited before you, or any such six or more of you as is aforesaid, willing, commanding, authorizing you, and every such six or more of you, as is aforesaid, upon the exhibiting, and upon diligent and deliberate View, Search and Examination of the said Statutes, Rules and Ordinances, Letters Patents and Writings, as is aforesaid: And also, where no Statutes are extant at all, or in any of the foresaid Cases, to devise and set down such good Orders and Statutes, as you or any such Six or more of you, as is aforesaid, shall think meet and convenient, to be by Us confirmed, ratified, allowed, and set forth for the better Order and Rule of the said several Churches, Erections and Foundations, and the Possessions and Revenues of the same, as may best tend to the Honour of Almighty GOD, the Increase of Virtue, Learning and Unity in the said Places, and the publick Wealth and Tranquillity of this our Realm, according to an Act of Parliament made in the first Year
 of

of the Reign of the said late Queen.

(Three Commissioners, whereof the Archbp. of York, the Bishops of Durham, Chester, and Carlisle be always One, are impowered to tender the Oaths to all suspected Recusants, and to certify the Refusal to take the same with the Names, Places, and Degrees of the Persons so refusing, into the Court of King's Bench.

Moreover Our Will, Pleasure, and Commandment is, that you our said Commissioners, and every of You, shall diligently and faithfully execute this Our Commission, and every Part and Branch thereof, in Manner and Form aforesaid, according to the true Meaning thereof, notwithstanding any Appellation, Provocation, Privilege or Exemption in that behalf, to be had, made, pretended, or alledged by any Person or Persons residing, or dwelling, in Place or Places exempt or not exempt, within the said Province of York, or any our Laws, Statutes, Proclamations, other Grants, Privileges, or Ordinances which be or may seem contrary notwithstanding. And for the better Credit, and more manifest Notice of your Doings in the Execution of this our Commission, Our Pleasure and Commandment is,

E

that

that unto your Letters Missive, Proceffes, Decrees, Orders, and Judgments from or by You, or any three or more of You, as is aforesaid, to be always sent forth, had, made, decreed, given, and pronounced at York, Bishopthorp, Rippon, Cawood, Southwell, Durham, and Auckland, which We allow for your Places of Sessions, You, or any such three or more of You, shall cause to be put and affixed, a Seal engraven with the Rose and Crown, and the Letter C. before, and the Letter R. after the same, with a Ring and Circumference about the said Seal, containing as it followeth. **SIGILLUM COMISSARIOR. REGIÆ MAJESTATIS AD CAUSAS ECCLESIASTICAS.**

Finally, We will and command, all and singular Justices of Peace, Mayors, Sheriffs, Baliffs, Constables, and other our Officers, Ministers, and Subjects in all and every Place or Places, exempt or not exempt, within the said Province of York, upon any Knowledge or Requisition from You, or any such three or more of You, as is aforesaid, to them or any of them, given or made, to be aiding, helping, and assisting unto you, and at your Commandment, and for the due

due executing of your Precepts, Letters, and other Processes requisite, in and for the due Execution of this our Commission, as they and every of them tender our Pleasure, and will answer the contrary at their outmost Perils. Lastly, We do by these Presents signify and declare our Meaning and Intent to be, and We do by these Presents give and grant full and free Liberty, Power and Authority unto the said Lord Archbishop of York, Lord Keeper of the Great Seal, and unto all and every of You our Commissioners, named in and by our former Commission, lately granted for Causes Ecclesiastical for the Province of York: that they and such of them, as by our said Commission are authorized in that behalf may prosecute, hear, and determine all Cause and Matter before the Date hereof commenced, and at the time of making hereof depending before the same Commissioners, by Force of, and according to the said former Commission, and also to proceed to the Execution of their Sentences, Orders, and Decrees, and upon the same, in as ample Manner and Form as they might have done before the making of these Presents; this our present Commission or the Publication
or

or Notice of the same, or any other Matter or Thing whatsoever to the Contrary thereof in any wise notwithstanding. Provided always, and our Will and Pleasure is, that the Lord Archbishop of Canterbury, the said Lord Archbishop of York, the said Lord Keeper of the Great Seal of England, and other the Commissioners for Causes Ecclesiastical, named in our Commission, under the Great Seal of England to them and others directed, the 8th Day of January in the fourth Year of Our Reign, intended and meant to be executed for and concerning any Spiritual or Ecclesiastical Jurisdiction within these our Realms of England and Ireland, and our Dominion of Wales, or any other our Dominions or Countries, shall and may proceed in the Execution thereof, and all things therein contained according to the Power thereby granted, and the true meaning of the said Commission, any thing herein contained to the Contrary notwithstanding, that you our said Commissioners named in this Commission for the Province of York, shall and may proceed in the Execution hereof, and of all things herein contained, according to the Power to you herein granted, and the true Intent of this Commission,
any

any thing in the said Commission, directed to the said Archbishop of Canterbury, the said Archbishop of York, and Lord Keeper and other the Commissioners for and concerning any Spiritual or Ecclesiastical Jurisdiction within these our Realms of England and Ireland and our Dominion of Wales, and any other our Dominions or Countries contained to the Contrary in any wise notwithstanding. In Witness whereof We have caus'd these Letters to be made Patents. Witness Ourself at Westminster the 25th Day of March, in the Fifth Year of our Reign.

Per ipsum Regem.

3^o. Julij, 1637.

Concordat cum qua-
dam Copia cum Ori-
ginali collat. in Ma-
nibus meis remanen.

Exam. per

GAB. JACKSON,

NA. JACKSON,

Notorios Publicos.

High

High COMMISSION.

Acta Curiae.

Die Jovis, viz. vicesimo die Mensis Octobris, Anno Domini 1625, in quadam superiori Camera infra Domum Maner. Reverendi in Christo Patris ac Domini Domini Richardi Neil, Providentia Divina Dunelm Episcopi apud Auckland, coram eodem Reverendo Patre, nec non venerabilibus Viris Augustino Lindsell, S. T. P. Cuthberto Ridley, Johanne Coufen & Johanne Lively, S. T. B. comparuit personaliter Edwardus Lively Notarius Publicus & præsentedavit Literas Commissionales Patentes Regias, ad Causas Ecclesiasticas, gerentes Dat. primo Die Augusti, Anno Regni Illustrissimi Principis Domini nostri Regis CAROLI primo, eisdem Dominis Commissionarijs & alijs directas, & magno Sigillo Angliæ communitas: Quas quidem Literas Commissionales ijdem Domini Commissionarij cum omni Reverentia, Obedientia & Subjectione receperunt: Et primo & ante omnia, Juramentum tam Regiæ Supremitatis, quam Allegiancæ & Fidelitatis eorum Domino nostro Regi Carolo, hujusque Hæredibus & Successoribus præstiterunt, & quilibet eorum præ-

præstitit, tactis & deosculatis per eosdem omnes & singulos S. S. Dei Evangeljis, & deinde Onus Executionis dictarum Literarum Patentium Commissionarium in se susceperunt; & juxta vim, formam, tenorem, & effectum earundum procedere decreverunt, & de fideliter exequendo dictas Literas Patentes Commissionales juxta eorum vires protestati sunt, reservata potestate cæteris Commissionarijs Collegis suis, in eisdem Literis patentibus Commissionalibus nominatis, cum venerint & voluerint simile Onus in se suscipere. Et tunc dicti Domini Commissionarij ratione Absentiæ Registrarij Regij ad Causas Ecclesiasticas in dictis Literis nominati, aut Deputati sui me præfatum Edwardum Lively Notarium Publicum, in Actorum suorum in hac parte scribam, ad inactitandum Præmissa omnia & singula assumpserunt.

Die Mercurij, viz. Nono die Mensis Novembris, Anno Domini 1625, in quadam Camera interiori Domus Prebendalis venerab. Viri Magistri Johannis Cradocke, S. T. P. notorie scituatæ infra Præcinct. Ecclesiæ Cathedralis Dunelm, inter horas nonam & undecim. ante Meridiem ejusdem diei, coram
Re-

Reverendo in Christo Patre & Domino Domino Ricardo permissione Divina Dunelm. Episcopo, Augustino Lindfel, S. T. P. & Johanne Lively, S. T. B. tunc & ibidem venerunt personaliter venerabiles Viri præfatus Johannes Cradocke, Gabriel Clarke Archidiaconus Dunelm. Franciscus Burgoine Archidiaconus Northumb. Johannes Robson, & Willielmus James in Art. Magistri Prebendarij dictæ Ecclesiæ Cathedralis Dunelm.

Nec non eisdem die & loco, inter horas secundam & quartam post Meridiem, ejusdem diei venerunt personaliter venerab. Viri Ricardus Hunt, S. T. P. Decanus Ecclesiæ Cathedralis Dunelm. Petrus Smart, & Ferdinando Morecroft, A. M. Prebendarij similiter dictæ Ecclesiæ Cathedralis Dunelm. & Andreas Pearne, A. M. quas quidem Literas in Actu præcedenti mentionatas prælibati Domini Commissionarij cum consimilibus Reverentia & Obedientia receperunt, & Juramentum suum prius præstiterunt, ac omnia & singula alia in eisdem Literis requisita modo & forma prædictis perimplerunt, cum Reservatione ut prius, ac præterea me Johannem Cradocke ratione Deputationis Domini Georgij Paule Militis, Principalis Regi-

gistrarij ad Causas Ecclesiasticas in & per totum Regnum Angliæ mihi & alijs directæ in Registratorem & Actorum suorum Scribam seu Actuarium tam in Præmissis, quam in alijs Negotijs imposterum expediendis, cum opus fuerit, in parte assumpserunt.

The Court Days.

Nov.	24.	Smart present.
Dec.	9.	
	15.	
Jan.	12.	
	13.	
	16.	
Feb.	14.	
Mar.	9.	
1626.	30.	
Apr.	20.	
May	11.	
June	8.	Smart present.
	25.	
July	13.	Smart present.
	18.	
	20.	Smart present, & sign'd a Sentence.
Sept.	22.	
	28.	
Oct.	5.	
	21.	

F

Nov.

Nov. 16.
 Dec. 7.
 14.
 Jan. 22.
 25. Smart present.
 Feb. 1.
 15.
 Mar. 1.
 8.
 15.
 1627. July 23.
 Sept. 1. The Commission renewed.

AT Durham Castle, upon the first of
 September, Anno Regis Caroli Angliæ,
 &c. tertio, Anno Domni 1627, the said Re-
 verend Father in GOD Richard Lord Bi-
 shop of Duresme, having received his Ma-
 jesty's Commission for Causes Ecclesiastical
 within the Province of York, under the
 Great Seal, to him and others directed, bear-
 ing Date at Canbury the Day of Au-
 gust, in the said third Year of his High-
 ness's Reign, did meet together with Mr.
 Doctor Hunt Dean of Durham, John Cra-
 docke Chancellor of the Diocese of Duresme,
 Francis Burgoine Archdeacon of Northum-
 berland, John Cofin Archdeacon of the
 East

East Riding, Augustine Lindfell D. D. Ferdinando Moorcroft, William James, and Andrew Pearne, Clerks, proceeded to take upon them the Execution of the said Commission, according to the Authority to them thereby granted. And thereupon the said Reverend Father, and the said Dean of Durham, John Cradocke, Francis Burgoine, John Cofin, Augustine Lindfell, Ferdinando Moorcroft, William James and Andrew Pearne, first taking the Oaths of Allegiance and Supremacy did with all Reverence and Submission assume and take upon them the Execution thereof, and decreed to proceed according to the Tenour of the said Commission in all and every the Clauses therein contained.

Quarto die Mensis Octob. Anno Domini 1627, John Robson and Peter Smart, Masters of Arts, having taken the Oaths of Allegiance and Supremacy, as is appointed, did with all Reverence take upon Them the Execution of his Majesty's Commission for Causes Ecclesiastical, within the Province of York, and from thenceforth to proceed in the Execution of the same, according to the Tenor thereof,

I beg leave to produce the following Case, as a true Instance of the good, moderate and pacifick Temper of these Commissioners.

Apud Dunelm. 8^o. die Mensis Novembris,
Anno Domino 1627. coram Venerab.
Viris Ricardo Hunt Decano Dunelm.
Johanne Cradocke Cancellario Dioces.
Dunelm. & Johanne Cofin Archidiacono
de le East-riding, Commissionarijs Do-
mini Regis, ad Causas Ecclesiasticas,
infra Provinciam Eboracens.

The Office of the said Commissioners pro-
moted by Bryan Henshaw, Schoolmaster of
the Free Grammar School of Morpeth,

Against

Barth. Gaire, Tho. Pye, Geo. Gaire, John
Bulman, Gawyn Marshal, Jo. White, Jo.
Wodruffe, Cuth. Smith, Chr. Dawson, and
Jo. Heslehead, Clerk, for detaining the School
Wages from the said Henshaw, and for o-
ther Abuses, and Injuries by them done a-
gainst the Person of the said Henshaw; as
also for prophaning the Chapel of All-Saints
in Morpeth, aforesaid.

Letters Missive were awarded against them
returnable this Day, which Day the said
Jo. Bulman, George Gaire, Gawyn Marshal,
and Jo. White, appeared before the said
Com-

Commissioners for themselves, as also for and on the behalf of the aforesaid Tho. Pye, Barth. Gaire, Jo. Wodruffe, Chr. Dawson and Jo. Hessehead.

“ And that the said Commissioners had
 “ propounded divers peaceable Motions, for
 “ deciding of Strife and Dissention betwixt
 “ the said Parties, and the foresaid Hen-
 “ shaw : The said Commissioners, at the Re-
 “ quest of the said Henshaw, and with the
 “ Consent of the said Defendants, did leave
 “ the Determination and Hearing of all Inju-
 “ ries and Wrongs whatsoever, to the Order
 “ of the Right Hon. the Lord Clifford ;
 “ and ordered that both the said Parties shall
 “ interchangeably enter Bond in the Sum of
 “ 300 l. a Piece, to stand to his Lordship’s
 “ Order and Award therein ; and the said Par-
 “ ties are required to certify this Court under
 “ his Lordship’s Hand, what he shall do
 “ therein.”

Continuation of the Court Days.

1627.Oct. 4. Smart sworn Commissioner.

Dec. 13.

Jan. 9.

24. Smart present.

Feb.

Feb. 6.
 21.
 Mar. 6.
 1628. May 24
 June 12.
 26.
 July 10.
 24.
 27. Prosecution begun.

Die Dominico 27. scil. die Mensis Julij Anno Domini 1628, inter horas secundam & quartam post Meridiem, ejusdem diei; coram venerab. viris Ricardo Hunt, S. T. P. Decano Ecclesiæ Cathedralis Dunelm. Marmaduco Blakeston, A. M. Johanne Cofin, S. T. B. & Willielmo James, A. M. Prebendarijs dictæ Ecclesiæ Cathedralis Commissi-
 onarijs Domini Regis ad Causas Ecclesiasticas infra Magnam Cameram Decanatus dicti Domini Decani apud Dunelm. præd. in præsentia mei Cuthberti Sisson, Notarij Publici eorum Actuarij per Eos legitime assumpti & aliter legitime deputati.

The Office of the said Commissioners,
 Against
 Mr. PETER SMART, one of the Prebendaries of the said Cathedral Church,
 for

for preaching in the same Church, the same Day, a seditious invective Sermon, against the decent and allowed Ceremonies within the Church of England.

“ A Letter Missive in the Nature of
 “ an Attachment was awarded the said Day
 “ against the said Mr. Smart, to appear
 “ forthwith : Which Day and Place the said
 “ Mr. Smart did personally appear, and delivered to the said Mr. Dean his said
 “ Sermon, in writing, to be copied forth ;
 “ affirming he would justify every particular
 “ thereof, which he had published in his
 “ Sermon the same Day ; and after the same
 “ should be copied, would declare upon his
 “ Oath, the same to be a true Copy verbatim, as the same was utter'd in the
 “ Pulpit : Which written Sermon the said
 “ Mr. Dean, in the Presence of the said other Commissioners, did receive, and appointed the said Mr. Smart to attend him
 “ the next Day, that the same might be
 “ truly copied out.”

And the said Mr. Smart did then and there acknowledge a Recognizance of 100 l. to be levied of his Lands, Tenements, Goods and Chattels to his Majesty's Use, to be and personally appear before his said Commissioners,

oners, or Three or more of them, or others their Associates, at the said City of Duresme, upon a Day's Warning thereof, to be given unto him, or left at his now Prebendal House in Duresme aforesaid; and then to enter further Bond or Recognizance, with sufficient Sureties, if the Court should so require.

A Pud Dunelm. Die Jovis 7^o. die Mensis Augusti, Anno Domini 1628, coram venerab. Viris Franc. Burgoine Archdiac. Northumb. Jo. Cofin Archid. de le East Riding, & Jo. Lively Commissionarijs Domini Regis, ad Causas Ecclesiast. infra Provinc. Eboracen.

The Office of the said Commissioners,
Against

Mr. Peter Smart, Clerk, one of the Prebendaries of the Cathedral Church of Durham, for preaching in the said Church, the 27th Day of July last, a seditious invective Sermon, against the decent and allowed Ceremonies of the Church of England, &c.

“ He was bound to appear, upon a Day's
“ Warning to be left at his Prebendal House
“ in Durham; to enter sufficient Sureties
“ for his further Appearance.”

Which

Which Day he appears before the said Commissioners, and being required by the said Commissioners to enter more Sufficient Surety for his further Appearance before the said Commissioners ; he the said Peter Smart then and there acknowledged a Recognizance to his Majesty's Use, in the Sum of 200 l. and Barnabas Hutchinson and Michael Richardson, 100 l. each apiece, upon Condition, that he the said Peter Smart shall personally appear before three or more of his Majesty's Commissioners, whereof One to be of the Quorum, at the City of Durham, upon four Days warning, to be left at his Prebendal House there ; then and there to do, perform and undergo what the said Commissioners or their Associates, whereof One to be of the Quorum, shall think fit to enjoin, concerning such Matters as are objected against him before the said Commissioners, and upon his Appearance, shall not depart without Leave of the Court.

A Pud Dunelm die Jovis 21^o. die Augusti
 Anno Domino 1628, coram venerab.
 Viris Ricardo Hunt Decano Dunelm. Franc.
 Burgoine, Marmad. Blakeston, & Johanne
 Cofin Clericis, Commissionarijs, &c.

The Office against Mr. Peter Smart.

“ He is bound to appear this Day upon
 “ four Days warning, to be given at his
 “ Prebendal House, to do and undergo what
 “ his Majesty’s Commissioners shall think fit to
 “ enjoin him.

Which Day he appeared before the said
 Commissioners ; and the said Commissioners
 did suspend the said Smart ab Ingressu Ec-
 clesiæ, &c. and did declare the said Peter
 Smart

Sequestratio Fructuum Prebendæ Magi-
 stri PETRI SMART.

R Icardus Hunt S. Th. P. Decanus &
 Capitulum Ecclesiæ Cathedralis Dun-
 elm. Christi & B. Mariæ Virginis, ad in-
 fra scripta Auctoritate Regia, & Vigore Fun-
 dationis, & Statutorum dictæ Ecclesiæ suf-
 ficienter & legitime fulciti dilectis nobis in
 Christo Gabrieli Clarke & Johanni Rob-
 son in Art. Magistris, Prebendis Ecclesiæ
 nostræ prædictæ Salutem in Auctore Salutis.
 Cum Petrus Smart, Clericus, A. M. Ca-
 nonicus sive Prebendarius quartæ Prebendæ
 infra dictam Ecclesiam Cathedralem Dunelm.
 contra bonos mores, & contra Christianam
 cha-

charitatem, & præcipue contra Statuta dictæ Ecclesiæ, scandalose se gesserit in grave Animæ suæ periculum, & aliorum Christi fidelium perniciosum Exemplum. Nos rite & legitime procedentes ex certis Causis prædictis, alijsque Causis justis & legitimis Animos nostros in hac parte specialiter moventibus, & ad hoc insuper per Statuta dictæ Ecclesiæ specialiter requisiti omnia & singula Feoda, Stipendia, Proventus, Redditus, Proficua & Emolumenta quæcunque PETRO SMART ratione quartæ Prebendæ & Canonatus sui in Ecclesia prædicta qualitercunque spectantia sive pertinentia juxta Statuta dictæ Ecclesiæ sequestranda, ac sub tuto & arcto sequestro nostro salvo custodienda decrevimus, prout sequestramus & decernimus per Præsentes. Vobisque Gabrieli Clark & Johanni Robson prædictis, conjunctim & divisim Custodiam hujusmodi sequestri nostri, ac omnium & singulorum Proficuo. Stipendior. Feodor. & Proventuum quorumcunque dicto Petro Smart, Ratione quartæ Prebendæ & Canonatus sui prædicti spectantium commitenda duximus, prout committimus per præsentes Justitia mediante. Ad publicand. igitur seu publicari faciend. hujusmodi sequestrum nostrum talibus

bus temporibus & locis, ac hujusmodi Personis prout Vobis seu alterutri Vestrum melius videbitur expedire (modo Juris Ordo observetur) levand. quoque colligend. & recipiend. omnia & singula hujusmodi Feoda, Stipendia, Proficua & Proventus quæcunque dicto quarto Canonicatui five Prebendæ qualitercunque ut præfertur spectantia five pertinentia: Eaque omnia & singula sub tuto & arcto sequestro nostro ad Nos, & Utrumque nostrum salvo custodiend. & servand. seu per alium vel alios sic levare, colligi, recipi, servari & custodiri faciend. Ut de omnibus & singulis Pecuniarum Summis, Stipendijs, five Proficuis per Vos seu alterutrum Vestrum aut Deputat. vestros in hac parte recept. seu recipiend. fidelem Nobis compotum juxta Tenorem statuti Ecclesiæ nostræ prædictæ reddere valeatis, cum ad id congrue fueritis vocati. Vobis præfatis Gabrieli Clark & Johanni Robson prædictis, de quorum Fidelitate plurimum in hac parte confidimus, Vices nostras ac plenam in omnibus Tenore Præsentium concedimus Facultatem & Potestatem conjunctim & divisim; Vosque & Utrumque Vestrum, ut præfertur, Sequestratores nostros, durante nostro beneplacito, & non ultra, præficimus, consti-

stituímus, & assignamus per præsentés. Dat.
Dunelm. sub Sigillo nostro Capitulari, 20.
die Mensis Septembris, Anno Domini 1628.

Die Jovis, viz. secundo die Mensis Octobr.
Anno Domino 1628, infra Galaleam, &c.

The Office of the said Commissioners,
Against

Peter Smart, Clerk, Prebendary of the
Cathedral Church of Durham, for preach-
ing a Seditious Sermon.

“ He standeth bound with Sureties to ap-
pear before his Majesty’s Commissioners,
“ upon four Days warning.

Which Day the said Peter Smart, accor-
ding to the Notice given him, appeared
personally before the said Commissioners :
Whereupon they decreed that the said Mr.
Smart should enter a Recognizance with
new Sureties, that he should appear before
them, or three or more of them at their
next Court. And so the said Mr. Smart did
then and there, acknowledge a Recognizance
of 100 l. Barnabas Hutchinson of the City
of Durham Gentleman, and Chr. Boacke of
Billingham in the County of Durham, Clerk,
as Sureties, either of them acknowledged a
Recognizance of 50 l. to be levied to his Ma-
je-

jefty's Use, of their Goods and Chattels, Lands and Tenements, upon Condition, that the said Peter Smart, shall be and personally appear before them, the said Commissioners, or three or moe of them, or their Associates, whereof One to be of the Quorum, at the City of Durham, upon Thursday the 23d of this Month of October, then and there to do, receive, and undergo what shall be lawfully required of him by the said Commissioners, or three or moe of them ; and upon such his Appearance not to depart without Licence of the Court.

Die Jovis, viz. 23^o. die Mensis Octobr. Anno Domino 1628, infra Galaleam, &c.

The Office of the said Commissioners,

Against

Mr. Peter Smart Clark.

“ He is bound to appear this Day, to
 “ do and undergo what the Commissioners
 “ shall assign.

Which Day the said Peter Smart appeared accordingly, and thereupon the said Commissioners monished him to appear again before them on Thursday the 13th of November next, to receive Articles.

Die

Die Jovis, viz. 13^o. die Mensis, Novemb.
Anno Domino 1628. infra Galileam,
&c.

The Office of the said Commissioners,
Against

Mr. Peter Smart, Clerk, one of the Prebendaries of the Cathedral Church of Durham, for preaching a seditious Sermon.

“ He was monished to appear this Day,
“ to receive Articles.

Which Day the said Commissioners assigned Cuthbert Sisson, Notary Publick, their Proctor in this Cause, which Assignment, the said Cuthbert Sisson took upon him, and made himself a Party for the said Commissioners, and their Office, and there exhibited Articles in Writing against the said Mr. Smart, which he desired might be by them admitted, and the said Mr. Smart, who, was personally present, sworn to Answer the same; whereupon they did admit the said Articles quatenus, &c. and did then and there swear the said Mr. Smart, upon the Holy Evangelists, truly and faithfully to Answer the said Articles respectively, so far as Law did bind him; and at the further Petition of Mr. Sisson, they monished him to give in his Answer in Writing,
be-

before their next Court; and they decreed the next Day to meet to take the said Answer, which the Commissioners then signified to the said Mr. Smart.

14. Nov. 1628, Mr. Ferd. Moorecroft, Mr. Jo. Cofin, and Mr. W. James, did meet in their new Library and took the Answer of the said Mr. Smart, who after he had answered, desired Copies of the Articles and Answer, and also desired that they would be pleased to give him Leave to make a more full Answer before the next Court, if to it he was required, which they decreed.

Die Jovis, viz. 27. die Mensis Novemb.
Anno Domino 1628, infra Galaleam,
&c.

The Office of the said Commissioners,
Against

Mr. Peter Smart, Clerk, one of the Prebendaries of the Cathedral Church of Durham, for preaching in the said Church, the 27th Day of July last, a seditious invective Sermon, against the decent and allowed Ceremonies of the Church of England, &c.

“ He hath answered the Articles and is
“ monished to appear.

Which

Which Day the said Mr. Smart appeared
not.

“ Notwithstanding which the Commissioners
“ in favour of his Person, and Place, decreed
“ to expect him till their next Court.

Die Jovis viz. 11. die Mensis Decemb.
Anno Domino 1628. infra Galileam
&c.

The Office of the said Commissioners,
Against

Peter Smart, Clerk, Prebendary of the
Cathedral Church of Durham, for preach-
ing a Seditious Sermon.

“ His Appearance was respited till this
“ Day.

Which Day the said Mr. Smart personal-
ly appeared, and humbly desired that he
might have a Proctor allowed to answer
for him, &c. which was granted, and the
said Mr. Smart did thereupon constitute
Mr. Bernab. Hutchinson his Proctor, and
promised to ratify, confirm, &c. which Con-
stitution the said Mr. Hutchinson took up-
on him, and made himself a Party for the
said Mr. Smart, &c.

Die Jovis, viz. 29. die Mensis January,
Anno Domino 1628, infra Galaleam,
&c.

The Office of the said Commissioners,
Against

Mr. Peter Smart, Clerk, one of the Prebendaries of the Cathedral Church of Durham, for preaching a seditious Sermon.

“ He hath answered Articles, and is monished to appear, &c.

Which Day the Commissioners were pleased to Decree a supersedend in the said Cause, for his further Appearance or Attendance here ; in regard that the Lords and Bishops of the other Province had taken Notice thereof, and the Cause was transmitted unto them.

After Mr. Smart was sent back from the High Commission at Lambeth, to that sitting at York, the following Letter from the Chancellor of York, gives sufficient Intelligence of his pacifick Dispositions.

To the Right worshipful, his very worthy Friend Mr. Francis Burgoine, at his House in Spofurth, give these.

Wor-

Worthy Sir,

“ **M**R. Smart gives great Words,
 “ magnifies himself infinitely in the
 “ Advantage he hath against Mr. Dean, and
 “ all the Prebends of your Church, for the
 “ unlawful Proceeding against him, for which
 “ ere it be long you must all smart : He
 “ does prettily threaten Us too ; nothing
 “ but that we can justify the whiles :
 “ He remains a Prisoner till he have made
 “ a fuller Answer, and enter'd Bond to ap-
 “ pear from time to time as he shall be
 “ called, and to abide the Censure of the Court.
 “ He disclaimes a great part of that which
 “ he delivered to you, as a Coppy of his
 “ Sermon ; for though he wrote it, he did
 “ not preach it. He is mad at the burn-
 “ ing of his Book, and yet disclaims the
 “ Book to be his that was burnt. He
 “ comforts himself, that his Sermon though
 “ questioned by Us, is commended by many
 “ wise, religious, and learned Men, as name-
 “ ly my Lordship's Grace of Canterbury,
 “ and Judge Yelverton, Complains of you,
 “ almost as much as of Mr. Cofins, tells a
 “ Tale of an Altar that you built at Yer-
 “ mouth, where none in the Church can
 “ hear a Word that is read ; of a Reve-
 rence

“ rence done by you to the Altar so low,
 “ as you could not recover your self, but
 “ fell down upon your Nose and made it
 “ Bleed ; that your Curate and Clerk did
 “ the like Reverence, but had no harm. It
 “ were worth your labour to come and Laugh
 “ with Us at his Vanity. And howsoever
 “ he pleases himself he will be hard held
 “ to it, and either be made bow or break.
 “ And thus being exceeding glad to hear of
 “ your good Health, whereof I could wish
 “ to be Eye witness, with my heartiest
 “ Love and Service to you, I leave you
 “ to GOD’s Grace, this 14 of Novemb.

Your ever loving Friend to
 Serve you,

PHIN. HODSON

P.S. If you come not hither, I shall go
 near to do you an ill turn, and come and
 trouble you.

After the Execution of the Sentence
 passed against Mr. Neil’s Hero at York,
 the Bishop of Durham, presented the Rectory
 of Bolden to Mr. Chapman, and the fourth
 Prebend in his Cathedral to Thomas Carre,
 D. D. who could not have peaceable Possession
 thereof, without a Regular Trial at Com-
 mon Law in the Year 1632, some Memo-
 ri-

rials whereof are inserted after the following Letter.

Part of a Letter from Mrs. Smart to her Husband, without mentioning the Place where he then resided, I suppose he was in Prison ; the Letter is too prolix, but so larded with Cant, that I confine my self within the ensuing Bounds.

To the Worthy, her dearly beloved Husband, Mr. PETER SMART, one of the Preabends of the Cathedrall Church of Doarham, these.

MOST loving and dearly beloved husband the grace and blessing of God be with you : even as unto mine owne Soule and body, so do I dayly in my harty prayer wish unto you and my children for I doe dayly twise at the least in this sort Remember you : and I do not doubte deere husband but that both you and I as we be written in the booke of life so we shall together enjoy the saime everlastingly throught the saveing grace and mercy of God our deare Father in his Soonne our Christ : and for this present life let us wholly appointe our selves : to the will of our good God : to glorifie him

him : whether by life or by death : and even that mercifull Lord make us worthy to honor him either way as pleaseth him Amen : ye what great cause of Rejoyfing : have wee in our most gracious God we can not but brust fourth into the prasing of fuch a bountefull God which maide you worthy to suffer for his name and worde sake: for it is given to you of God not only that ye should believe in him ; but also, That ye should suffer for his Saik, 1. Peter 4.5. Yf ye suffer Rebuke in the Name of Christ, that is in Christs Cause for his Truthes sake then ar ye happy & blessed for the Glory of the Spirit of God resteth upon you, and therefore rejoyce in the Lord, and againe I say rejoyce ; for the distressed Church doth yet suffer dayly Thinges for her Mortification and for this Cause is contemned and despised : But alas if thy Servant David if thine onely Sonne our Saviour Christ livede in Shame and contempt, and weere a mocking stocke for the people : whie should not we then patiently suffer all Things that we might enter into Glory through many Troubles : Vexations shame and Ighominy therefore dearely beloved : let us Repent & be

be hartely fory that we have so carnally
 so hipocritically so covetous so vaine glori-
 ously professed the Gosple: for all these we
 may confesse of our selves to the Glory of
 God that he may cover our Offences:
 that from the bottom of our Harts every one
 of us may say it is I Lord that have sin-
 ned against the: it is my hypocrisie my
 vaine glory: my covetousnes uncleannes car-
 nalltie securitie eidelnesse unthankfulnes self-
 love and such like oh be merciful: be mer-
 ciful: unto us: tourne us againe O Lord
 God of Hostes and torne us unto the:
 correcte us but not in thy Furye but in the
 midst of thine anger Remember thy Mercy:
 for yf thou marke what is done amisse who
 shall be able to abid it: but with the is
 mercifulnes that thou might be feared and
 worshipped oh then: be mercifull unto us:
 that wee might truely worship the help
 us: for the glory of thy Name: be merciful
 unto our Sinnes for they are great oh heale
 us and helpe us for thine honor: let not
 the Arminions say where is now his God:
 now Sire we will come to our worldly bisnes
 for we marvele that we heere nothinge
 from you for I have beene with Mr. Wright
 to get him to take this sucte in hand :
 for

for we had none to go to but him : and he is very fory that you ded nothing but rather make it worfe the laft tarme for I have promifed him that no Man fhall do any thing in this bifnes but by his de-
rections neither my Sonne Willyam nor my Soonne Ogle but by his deirections for I have promifed him faithfully : becaufe I have taken it in hand that yt their be any faith or truth in me he fhould have all the deffpoffing of it for Mr. Pleafinges is for our Enemies and Mr. Heath and Mr. Heath of Ramfide all againft us for their is not one Man that will fhew him felfe in all this contry for you but Mr. Wright for I hard fay that he towld Mr. Deane and Doc. Linflay and the Chapter that he would take your part , and would do all that in him lieth for you : he fpack it openly to their faces : And if he had not taken of the new Chanfelor for this terme Chapman had troubled your Perrifhoners of Bouldon before now : wheere for you are much behoulden to him for our tennantes of Witton is ever going to him and he never had any thing of me there fore good Sire follow his coun-
ceil in all thinges in this matter wholly and Mr. Leaver entertained Mr. Thomas Tem-
peft

pest an honest gentlemean the Kinges Attur-
 ny in the Bishoprick of Durham : and he
 is a great man with the Kinges Attur-
 ny generall Mr. Noye and may doe you good
 in this matter and therefore I pray you talke
 with him and shew him how they have
 done to you and give him good Instructions
 for he desireth to have all your Instructions
 for we must sende my Soonne Cooksoonne
 to York for all your proceedinges in York
 with the Seeles with them since the be-
 ginning for Mr. Wright saith they are nought
 with out the Seeles and I tould Mr. Wright
 he could not get them and he said that
 he would make Affedaved in London that they
 could not be gotten and if got Mr. Wright will
 bringe them up to London with him and he
 will come to you and goe with you to all Se-
 villyanes in London to know the truth of
 their douings : and what is to be done : and
 how you were used : and that he would be
 the Solister himself : which you are much
 beholdene unto : and theirefore I pray you
 confider him for his great paines : we were
 talking of a Jurye and he said : yf he knew
 their would be any exceptions : he would
 speake for an in deffrant Jurye of the Judges
 at London for we have entertained Mr. Mar-

taine for our Attorny but hath given him
 nothing for Mr. Leaver borrowed 10 s.
 the same Day that proffes were served of
 our Tenaunts of Witton : and give it to
 Mr. Tempest : and did entertaine him with
 Mr. Wright : for they cam on with such an
 Order as they were much greved both of
 them : and this 10 s. not paid because we
 were disapointed of Witton rentes and for
 Boulden rentes your Soonne Willyam had
 when he cam to London and for substies
 fix Pound and I had seven Pound : the
 Lady day last whereof my Souen Cocksonn
 hath 4 pound to Yorke for these Writtings
 and Danson fortie Shillings which he laid
 fourth at Yorke before Christmas in the Sute
 their and 8 s. Mr. Osbuston had sent for
 we feared that they would move for
 to have possession : and so we sente : Mr.
 Wright did write to Mr. Osbeston whereof
 I send you the coppie : and for the rest
 of the rentes at Bouldon it is in Robert
 Goodchields hand Robert Sparrow Thomas
 Carnibe handes and will not paye it to them :
 and now Mr. Cosing Mr. Car being at Dur-
 ham they went together to York and moved for
 possession and Dr. Car was in the Court
 himselfe and could not gete possession but
 gote

gote Sequestration for Witton rentes and you doe nothing which we marvel that you and your Soones is so iddle for you will not send us word what to doe in any thinge for you go about trifles for your enemies doth triumph and saith they desire no better Adversary then you be and saith your biffnes is not halfe followed and drink their pottes with merth saying their pleasure : and Thomas Troloup said that your Soone Willyam tould him that you had been with Dr. Barker and he toulde that you might keepe your leveing but an other must serve them which is very ill done to tell any man for they will go to Docter Barker and take him of from you : for Trowlope saith he hath a sute for the Deane and Chapter for an hundreth Markes that you owe the Church and you sued the Chapter for an thousand pound and the Deane told Mr. Danson that the Bishop of Wenster and London and Lensall and Coffings doth labour the King that you shall have no right : and the Judges : they will laybor : for Mr. Comming saith that their is a Commission Renued for the Fines for the King which is 900 pound : he spake it to a frend of yours and therefore I much mervell what
you

you doe and so do others that you doe not
 take order in the Exchequer for a lettell
 Money for your Sonne Ogle said he could
 for a small thing doe it : for sartainly Mr.
 Comming hath it renewed and it is to kepe
 you in that you shall not come to Durham
 nor to the Church for he saith he will not
 com willyingly to you but if he see you
 he must needes do his Office and therefore
 I pray you looke to these thinges : and I
 pray you pay Mr. Wright and Mr. Tem-
 pest for I hope they will do you good in
 this matter Mr. Willyam James told Mr.
 Tonstall that your matter was good : " but
 " your bitter words before the Commicion
 " and other great Men ded undoe you : "
 you were so uppaticent and I fear not painge
 the rente for Witton they will take ad-
 vantage of us I pray prevent it yf you can: for
 I never speake of it but Mr. Lever fears
 it and bed me never speeke of it : but Mr.
 Wright and Mr. Leaver would have a good
 Soliiter to follow this biffnes faithfully and
 carefully or else it will be wrong for it greves
 them to see it go as it doth : ~~we~~ we
 send you up the Order that was decreed at
 York with all other Writttings that we have
 and you never sendes us any derections what
 wee

wee shall do here nor never a letter the
 Report that Lenfall sent to Coffines that
 you wer deede and a nother report that you
 got a fall of your Horfe and will come down
 in Horfe litter that all your Enemies rejoyce
 I rest the blessing of God be with all
 Amen pray pray

Your loving and faithfull Wife
 untill death Susanna Smart,
 written from Witton gillbart
 the 6 day of Aprall 1632.

P S. The order which came from York
 the latter end of it is that if you get the
 sute in Durham they may remove it to Yorke
 againe and we tould Mr. Wright and
 he said they would do what they list but
 he would labour to take it out of the handes
 at York, and stay it yf he could and theirfore
 I pray you help him in all thinges and Mr.
 Tempest for now it standes upon the maine for
 the Arminyans rest not for they said before
 they began the sute they knew it would
 come to this that it is come for Coffinges
 labors at Yorke and Linsell at London with
 Neile and Loude and others but you take
 no paines though your cause be good which
 is a shame for you and all that belongs to
 you their.

“ Here

“ Here you have a Specimen of Female
 “ Casuistical Puritanisme; ’twas, no doubt,
 “ such a Curtain Lecture in Behalf of the
 “ Good Old Cause prevented Mr. Smart’s
 “ proud Heart from submitting to the ter-
 “ rible Persecution of a Recantation, which
 “ was all that was required of him by his
 “ Brethren the Commissioners at Durham,
 “ and was in a fair Way of being ami-
 “ cably effected; but his proud Heart was
 “ both naturally harden’d and easily inflam’d
 “ by his canting Consort, who it may rea-
 “ sonably be supposed, had no small Share in
 “ the Composition of that virulent Ser-
 “ mon for which he suffered. Not unlike
 “ that hopeful Wife of one of the Pentland
 “ Rebels in Scotland, who when her Hus-
 “ band, with another of his Accomplices,
 “ were brought to the Gallows, and the
 “ Mercy of a Pardon offer’d them, upon
 “ Condition they would loudly pray for
 “ King CHARLES II. and the Duke of
 “ York; the first harden’d Rogue ascend-
 “ ed the Ladder and was turn’d off, which
 “ made the other hesitate, and began to
 “ desire Life upon so easy Terms, till his
 “ Wife, desirous to be rid of him, boldly
 “ bid him consider, That that Moment his
 mar-

“ martyr’d Companion enter’d Paradise, and
 “ would sup with Jesus Christ; and could
 “ he refuse so sweet an Opportunity
 “ to be with GOD; so he boldly suffer’d
 “ the same Fate: But his kind Widow
 “ concluded the Evening with an amorous
 “ Dragoon, was pull’d out of Bed from
 “ him, and publickly stigmatized by the
 “ Mob.”

Aug. 1632. The Summ of what pass’d at
 the Assizes at Durham, in the Trial be-
 tween Dr. CARRE and Mr. SMART.

1. The Case in Controversy was opened, and the issue was to be tried, whether Mr. Smart, being degraded, were yet a Prebendary of Durham or no, or had still any Interest in the Corps belonging to the fourth Prebend of that Church.
2. The Lease of the Corps was produced, wherein it was provided, “ That the De-
 “ mise thereof should continue no longer
 “ than until the Michaelmas next after
 “ his Death, Resignation, Deprivation,
 “ Cession or any other lawfull Avoydance
 “ whatsoever.
3. His Lawyers pleaded, “ That he was still
 “ a-

“ alive, that he had not yet resign’d his
 “ Prebend ; and that he was not lawful-
 “ ly deprived of it. ”

4. Hereupon the Censure of the High Commission at York was read, viz. the Sentence of Suspension, Submission, Fine, and Imprisonment, the Sentence of Excommunication for not performing his Submission accordingly ; and lastly, the Sentence of Degradation, for his Obstinacy and continued Contumacy.

In these Censures was compendiously contained all his scandalous and Schismatical Invectives against the Service of the Church of Durham, and his Majesty’s Chapel, which did so much amaze the whole Company, and affect Judge Dampport with such Horror, that he cry’d out openly, “ Fye upon it, the Censure was
 “ mild, he deserv’d to be suspended in
 “ in another Nature, &c.

5. Against the Copies of these Censures which were exemplified under the Seal of the High Commission, Mr. Edward Wright a Lawyer that pleaded for Mr. Smart, having been his Scholar, took Exception, “ That they were of no force in
 “ Law, that the Commissioners had no
 Writ-

“ Power to use or to put a Seal to their
 “ Writing, all the Power they had being
 “ granted them by Act of Parliament
 “ wherein there was no mention of a
 “ Seal, that therefore unless there were
 “ Witnesses present to prove the Fact, the
 “ sealed Instruments were not to be ad-
 “ mitted.

6. Whereat Judge Dampport grew much of-
 fended and told the Lawyer, “ It became
 “ him not to question the Validity of the
 “ Seal, which the King had granted to the
 “ Commissioners; that the Act of Parlia-
 “ ment did not make but declare the
 “ Power the King had in himself to grant
 “ the Commission; and that he who had
 “ Power to grant a Commission, had al-
 “ so Power enough to grant a Seal; that
 “ therefore the Copies should be admitted,
 “ and the Seal allowed without any fur-
 “ ther Cavil or Proof of Witnesses.

7. In the Sentence of Degradation were
 these Words, degradamus & deponimus
 eum ab omni Ordine, Gradu, & Dignitate
 clericali & ecclesiastica, & ab omnibus
 ejusdem Clericalibus titulis.

8. The Lawyers on Mr. Smart's Side, plea-
 ded, but some of them with a Preface “ That
 K “ they

“ they abhorred his Misdemeanors ; 1st,
 “ That his Censure was not of sufficient
 “ force in Law to deprive Him of his
 “ Living or Prebend, because it wanted
 “ the Word *deprivamus*; 2dly, That it
 “ was in the Power of the Commissioners,
 “ to take away his Orders, in the Exe-
 “ cution whereof he had misdemeaned
 “ himself, but not to take away his Liv-
 “ ing, which was his Freehold in Law.
 “ 3dly, That being a Layman he was
 “ capable to take, and therefore to hold
 “ a Prebend in a Cathedral Church. 4thly,
 “ That a Prebend was no Dignity, and
 “ therefore that by the Censure it self he
 “ was not deprived of it. 5thly, That
 “ when his Sentence was read against him,
 “ he was out of the Commissioners Juris-
 “ diction by Virtue of his Habeas Corpus;
 “ and that therefore all was void which
 “ was then done against him. ”

9. But Mr. Edward Wright added two
 Arguments more, “ 1st, One was Dr.
 “ Duck’s Opinion, the Chancellor of Lon-
 “ don, given in *Scriptis* on the behalf
 “ of Mr. Smart, That the Sentence of De-
 “ gradation was not sufficient in Law to
 “ deprive Mr. Smart of his Prebend, be-
 “ cause

" cause it was but a verbal and not an
 " actual or real Degradation. 2dly, An-
 " other, and that to shew what a lawful
 " and an actual Degradation was, the De-
 " creee of the Council of Trent, where-
 " by he that is to be degraded must
 " have his Chalice and priestly Garments,
 " &c. taken from him, which being not
 " observed toward Mr. Smart, it must
 " needs be concluded, that he was nei-
 " ther degraded nor deprived at all.

10. These Pleadings Mr. Wansford and Sir
 John Banks, Countell for Dr. Carre an-
 swered very learnedly and briefly, " That
 " they came not to answer Dr. Duck's
 " Opinion, nor the Council of Trent; that
 " they took the Sentence of Degradation
 " to be good and unquestionable in their Law,
 " and that the Prebend or any other
 " Ecclesiastical Living was annexed to
 " Holy Orders, and that one followed
 " the other; that degradamus & deponimus
 " eum ab omnibus Titulis Clericalibus,
 " was as much as deprivamus; howsoever
 " that Degradation was as lawful an A-
 " voidance of the Prebend as Deprivation
 " could have been.

When

When the Lawyers had ended, my Lord Chief Baron stood up, and upon what had been read and spoken raised a very learned and large Discourse, sent for Law-Books (Fitz-herbert de Natur. Brevium, and others) into Court, turned to and read the Places, whereby he made it plain, “ that by the Common-Law the Censure
 “ of Degradation was so great that it in-
 “ cluded and comprehended the Censure
 “ of Deprivation within it : That the
 “ Words of their Law were non habet
 “ sancta Mater Ecclesia quod ultra faciat :
 “ That the Church came to it by Degrees,
 “ but when she came hither it was the
 “ last and sharpest Arrow she could Shoot ;
 “ that Degradation being once past, there
 “ was no Use of Deprivation at all : That
 “ Deprivation was commonly for a par-
 “ ticular Fault, and from a particular Be-
 “ nefice, but Degradation for a general (as
 “ this Fault of Mr. Smart’s was general,
 “ and abusive of the whole Church, ten-
 “ ding to a very Anarchy both in Church
 “ and State) and from all Benefices what-
 “ soever, or any Execution of the Mi-
 “ nistry : That if Orders be taken away,
 “ all Benefices, as things annexed and
 gi-

“ given for the Execution of Ecclesiasti-
 “ cal Offices, are necessarily taken away
 “ with them : That Altar was not to
 “ be set up against Altar, nor one Court
 “ against another : And so, as in their
 “ Courts they looked their Sentences should
 “ stand, so there was no Reason but
 “ they should let the Sentence of the
 “ High Commission stand also. That
 “ now, ergo, nothing remained for the
 “ Church to do, but from the Regal
 “ Power followed a Writ de Hæretico
 “ comburendo, as there should have done
 “ for this Schismatick de Suspendendo.
 “ To the 3d Objection he said, that a
 “ Layman, being instituted into a Prebend
 “ or Benefice, was a sufficient and law-
 “ ful Incumbent in the Common Law,
 “ till the Ecclesiastical Power had declar-
 “ ed him destitute again of the same.
 “ To the 4th, that my Lord Dyer’s Re-
 “ port was against it. To the 5th, that
 “ the Habeas Corpus suspended no Juris-
 “ diction of Ecclesiastical Commissioners.
 “ And to Mr. Edward Wright’s Objec-
 “ tions He added, that it was strange
 “ Dr. Duck would subscribe any Writ-
 “ ing against the Sentence of the High
 Com-

" Commission, yet that it might have
 " been spared in this pleading, as not be-
 " longing to their Law ; and that the
 " Words deponimus & degradamus in the
 " present Tense were operative and active
 " enough : For the Council of Trent that
 " he had better have let it alone, and
 " that he was unadvised to use it. And
 " to the Jury he concluded, that in his
 " Conscience Mr. Smart was now as a
 " Layman, and had no Right in his Pre-
 " bend : That he had well deserved this
 " Censure and a greater by far, for his
 " wicked and seditious Misdemeanours,
 " whereupon the Jury went out, and
 " not long after brought in their Ver-
 " dict for Dr. Carre.

After such Defeats Mr. SMART's plot-
 ting Head rested satisfied in his more success-
 ful Method of raising Supplies by the plausible
 Pretence of being a persecuted Minister, till
 1640, he was enlarged by the Parliament ;
 and then he entred upon Action to their
 great Content, he being willing to sacrifice
 the Church and all, in Prosecution of be-
 loved Revenge.





THE
PARLIAMENTARY Proceedings,
FROM THE
Diurnal Occurrences.



Saturday, Nov. 21. 1640.

REsolved upon the Question, That Dr. Cousins be forthwith sent for as a Delinquent, by the Serjeant at Arms attending on this House.

Rushw. Vol. 1.

23d Day.

This Day Dr. Cousins was brought into the House as a Delinquent, to answer to an Indictment heretofore preferred against him; for saying, That the King was not the Head of the Church, and seducing the King's Subjects to be Papists.

4th Day of December.

That Morning Directions were given to the Serjeant at Arms to bail some Prisoners, as Layton, Larken, Prin, Wilfon, Conrades, and Burton; but Dr. Cousins, Kilvert, and and some others, were in respect of Secretary Windebank's flight denied Bail.

Saturday, the 23d of January.

Upon Mr. Rowse's Report from the Committee for Mr. Smart, it was resolved upon the Question,

That the several Preceedings of the High Commission Court of York and Canterbury against Mr. Smart, and the several Fines imposed by them upon him, were illegal and unjust and ought not to bind.

That the Degradation of Mr. Smart, and his Deprivation from his Prebend, and other Ecclesiastical Livings, were unjust and illegal; and that he ought to be restored to all of them, together with the mean Profit.

That Dr. Cousins, and others, the Prosecutors of Mr. Smart, ought to make Satisfaction for his Damages sustained.

That Dr. Cousins is guilty of bringing in of Superstitious Innovations into the Church, tending to Idolatry, and of speaking of

scandalous and malicious Words against his Majesty's Supremacy, and the Religion Established.

That Dr. Cousins is in the Opinion of this House unfit, and unworthy to be a Governor in either of the Universities, or to continue any longer Head or Governor of any College, or to hold and enjoy any Ecclesiastical Promotions.

Referred to the Committee, for Mr. Smart to prepare such things as may be transmitted to the Lords, concerning Dr. Cousins, and likewise to consider of some fit way of Reparations to be made to Mr. Smart for his Damages sustained.

February 21st Day

There was a report against the Dean, and Prebends of Durham, whereof Dr. Cousins is one, and that Mr. Smart shall be put into his Prebendary.

March 4th Day.

Doctor Cousin was voted against, for the causing of 2000 l. to be spent in Durham, for the setting up of Images and other Devices, and Innovations in the Church, the Holy Knife to cut the Communion Bread, which was also consecrated, picturing our Saviour with a Golden Beard, and a blue Cap on his Head ; the which a Scots Man seeing, he

L

said

said he never knew Christ was his Country Man before.

March 8th Day

This Day Mr. Smart's Articles against Dr. Cousins, and some of the High Commissioners at York were voted in the House of Commons, and prepared ready to deliver up to the Lords.

March 15th Day.

The CHARGE against Doctor COUSINS was delivered up to the House of Lords, consisting of those ARTICLES,

1. **T**hat he was the first Man that caused the Communion Table in the Church of Durham to be removed and set Altar-wise, in the erecting and beautifying whereof he (being then Treasurer) expended two hundred Pounds.

2. That he used to officiate at the West side thereof, turning his back to the People.

3. That he used extraordinary bowing to it.

4. That he compelled others to do it, using violence to the Persons of them that re-

refused so to do : For Instance, once some omitting it, he comes out of his Seat, down to the Seat where they sat, being Gentlewomen, called them Whores and Jades, and Pagans, and the like unseemly Words, and rent some of their Clothes.

5. That he converted divers Prayers in the Book of Common-Prayer into Hymnes, to be sung in the Quire, and played with the Organ, contrary to the antient Custom of that Church.

6. That whereas it had been formerly a Custom in that Church, at the end of every Sermon to sing a Psalm ; this Custom, when Doctor Cousins came hither was abrogated, and instead thereof they sung an Anthem in the Quire, there being no Psalm sung either at the Ministers going up into the Pulpit, or at his coming down,

7. That the first Candlemas-day at Night, that he had been in that Church, he caused three hundred Wax Candles to be set up and lighted in the Church at once, in honour of our Lady, and placed threescore of them upon and about the Altar.

8. That

8. That in this Church there were reliques of divers Images, above which were remaining the Ruines of two Seraphims with the picture of Christ between them erected in Queen Mary's Time, in the Time of Popery ; all which when Queen Elizabeth came to the Crown, were demolish'd by vertue of a Commission by her to that intent granted, which so continued demolished from that time, till Doctor Cousins came to that Church, who being Treasurer, caused the same to be repaired, and most gloriously painted.

9. That all the time he was unmarried, he wore a Cope made of white Sattin, never officiating in any other, it being reserved only for him, no Man except himself making use thereof, which after Marriage he cast off, and never after wore.

10. That there was a Knife belonging to the Church, kept altogether in the Vestry, being put to none but Holy Uses as cutting the Bread in the Scarament, and the like, Doctor Cousins refusing to cut the same with any other but that, thinking all others that were unconsecrated, polluted, but

but that, which he putting Holliness in, never termed but the consecrated Knife.

11. That he in a Sermon preached did deliver certain Words in disgrace of the Reformers of our Church, for instance, the Words were these, " The Reformers of this Church, when they abolished the Masse, took away all good Order, and instead of Reformation, made it a Deformation.

12. That he seldom or never in any of his Sermons stiled the Ministers of the Word and Sacraments by any other Name than Priests, nor the Communion-Table by any other name than Altar.

13. That by his appointment there was a Cope bought, the Seller being a convicted Jesuit, and afterwards imployed in that Church, having upon it the Picture of the invisible and incomprehensible Trinity.

14. That whereas it had been formerly a Custom in that Church, at five of the Clock to have Morning Prayers read Winter and Summer : This Custom, when Doctor Cousins came thither, was abandoned, and instead

stead thereof was used singing, and playing on the Organs, and some few Prayers read, and this was called first Service ; which being ended, the People departed out of the Church, returning at nine o'Clock, and having then Morning Prayers read unto them, and this was called second Service, which Innovation being disliked, and complained of by Master Justice Hutton, was reformed.

15. That he framed a superstitious Ceremony in lighting the Tapers which were placed on the Altar, which for Instance was this, A Company of Boys that belonged to the Church, came in at the Quire Door with Torches in their Hands lighted, bowing towards the Altar at their first Entrance, bowing thrice before they lighted their Tapers, having done, they withdrew themselves, bowing so oft as before ; not once turning their back-parts towards the Altar, the Organs all the Time going.

16. That he counselled some young Students of the University to be Imitators and Practisers of his superstitious Ceremonies, who to ingratiate themselves in his Favour, did,

did accordingly ; and being afterwards reproved for the same by some of their Friends, confessed that Dr. Cousins first induced them to that Practice, and encouraged them therein.

17. That he used upon Communion Days, to make the Sign of the Cross with his Finger, both upon the Seats whereon they were to sit, and the Cushions to kneel upon, using some Words when he so did.

18. That one Sabbath Day there was set up an unnecessary Company of Tapers and Lights in the Church, which Dr. Hunt being then Dean, fearing they might give Offence, being they were unnecessary, sent his Man to pull them down, who did so ; but Dr. Cousins being thereat aggrieved, came to the Fellow, and there miscalled him in most uncivil Manner, and began to beat him in the publick View of the Congregation, to the great Disturbance of the same.

19. That the Dean and Chapter of that Church, whereof Dr. Cousins was one, with many others, being invited to Dinner in the Town of Durham, Dr. Cousins then and there
spake

spake Words derogating from the King's Prerogative: The Words were these, " The King hath no more Power over the Church, " than the Boy that rubs my Horse Heels.

20. That there being many of the Canons in the said Church present at that Time; amongst the rest there was one took more Notice of his Words than the rest, and acquainted one of his Fellow Canons with them when he came Home ; This Canon being a Friend to Doctor Coufins, told the Doctor that such a Man exclaimed of him, and charged him with Words at such a Time ; The Doctor presently sent for him, and when he came into the House, the Doctor desires him to follow him into an Inner Room, who did so ; but so soon as he came in, the Doctor shuts the Door, and sets both his Hands upon him, calling him Rogue and Rascal, and many other Names, insomuch that the Man fearing he would do him a Mischief, cried out ; Mistrefs Coufins coming in, endeavoured to appease her Husband, and holding his Hands, the other ran away.

21. That the Doctor did seek many unjust

just ways to ensnare this Man, that so he might take a just occasion to put him out of his Place ; but none of them taking effect, he put him out by Violence, having no other Reason why he did so, but because he had no good Voice, when he had served the Place two Years before Doctor Cofin came thither : For Instance of which unjust ways to ensnare this Man, Doctor Cofin hired a Man and a Woman to pretend a desire of Matrimony, and to offer a Sum of Money to this Petty Canon to Contract Matrimony between them in a Private Chamber, so thereupon to take Advantage of his Revenge upon him ; This Plot being confessed by the Parties to be first laid by Doctor Cofin, and that they were his Instruments.

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THE

ANSWER

Made by

Dr. *Cosin*, Dean of
Peterbr.

To the
ARTICLES exhibited against Him, by
Mr. PETER SMART, in the High
Court of Parliament, Anno Domini 1640.



To the Right Hon. the Lords Spiritual and
Temporal, assembled in the High Court
of Parliament,

The most humble ANSWER of JOHN
COSIN, Clerk, and one of the Preben-
daries of Durham, to the Declaration and
Impeachment exhibited against him and O-
thers, before your Lordships, by the Hon.
House of Commons of Parliament, upon
the Complaint of PETER SMART, late
Prebendary of Durham.

THE said John Cosin being impeached
before your Lordship's of several
Crimes and Misdemeanours, which
are comprised in the Articles perferred against
him

him, and Others by the said Commons-House of Parliament, doth find in himself a great pressure of Sorrow and grief of Heart, that so Worthy and Honourable a House should hold him suspected of those things, where-with he is jointly and severally charged upon the Complaint of the said Peter Smart; yet in asmuch as the Integrity of his own Conscience doth assure him that he is not guilty either of reducing any Popish Superstitions into this Church of England, or of uttering any scandalous Words against the Religion reformed and established therein, or of the least disloyal Thought or speaking against his Majesty's Supremacy; He is thereby encouraged to make and represent this his humble and just Defence before your Lordships, of whose great Wisdom, Justice, and Honour he is so well assured, that he doth with all lowly Confidence submit himself and his whole Cause to your Lordships Prudence, Examination, and Judgement; before whom he shall with all Sincerity and Clearness unfold and lay forth the Truth of his Words and Actions.

The joint Charge consisteth of Eighteen several Articles; whereunto (for asmuch as concerneth his particular) he maketh these

several and distinct Answers, observing the same Order, wherein they are laid down unto him ; and humbly craving the usual Benefit, that he may be admitted to make his further Explanation and Proof, as there shall be Occasion.

1. " To the first Article this Defendant
 " answereth and denieth, That he took a-
 " way the Communion Table of that Ca-
 " thedral Church, or erected an Altar of
 " Stone set upon Columns, with Cherubins
 " thereupon, or that he placed a carved
 " and gilded Skreen over the same, or
 " that he brought in any the Copes, Or-
 " gans, Images, and Pictures in the Decla-
 " ration mentioned, or made any unlawful
 " Alterations in the said Church ; but saith,
 " that the Communion-Table now there in
 " Use, (upon the Feet whereof some small
 " Pourtraitures are drawn) together with
 " the said Copes, and Organs, were brought
 " in, and placed in that Church long before
 " this Defendant's Time, and while the
 " Complainant Mr. Smart was Prebendary
 " there ; who contributed his Part towards
 " the Charge thereof, as this Defendant hath
 " been informed, and doubteth not to prove ;
 " neither are any of the Prebends-Residen-
 " tiary

& tiary now surviving in whose Time the
 “ said Communion Table of Stone, the carved
 “ Skreen, and the Copes were brought into
 “ that Church, but only the said Mr. Smart
 “ and Ferdinando Morecroft. And the Images
 “ and Pictures in the first Article mentioned
 “ (except these in the seventh Article concern-
 “ ing the Font) have been in that Church
 “ by all probability beyond the Memory
 “ of Men. And further affirmeth, that in
 “ the Furniture, or any other Alterations
 “ (besides the necessary Repairs) of the said
 “ Church, there was not expended, between
 “ the Time of this Defendant’s coming in to
 “ be Prebendary there, and the Time of Mr.
 “ Smart’s Sermon (in the 13th Article
 “ mentioned) above the Sum of Two hun-
 “ dred Pounds, which was chiefly laid out
 “ in procuring Books for the Quire, to-
 “ gether with a Cloth and Cushion for the
 “ Pulpit, and Plate for the Communion :
 “ towards all which Furniture Mr. Smart al-
 “ so did allow his Proportion for the Charge
 “ (as may be seen in the Register) with the
 “ same readiness of Consent, that other Pre-
 “ bendaries did.

“ And as touching any frequent Bowing,
 “ or increase of Bowings, or any bowing at
 “ all

“ all to the said Table, this Defendant, for his
 “ part, utterly denieth the same, and holdeth
 “ it altogether unlawful to be done. But
 “ as for Gesture of Humility, Abbaisance,
 “ or bowing of the Body at going out or
 “ coming into the said Church in Reverence
 “ to God Almighty, this Defendant acknow-
 “ ledgeth he hath used the same, as he
 “ found it in Practice at his first coming
 “ thither, and as he hath been credibly in-
 “ formed, constantly used for divers Years
 “ before by the Bishop, Dean, and Preben-
 “ daries that were there, and hath been
 “ since approved and practised by all their
 “ Successors: But he this Defendant ne-
 “ ver required or moved any one whomso-
 “ ever thereunto.

“ Lastly, this Defendant denieth that he
 “ did ever officiate with his Face purpose-
 “ ly towards the East; but saith, That he
 “ constantly stood at the North-side (or End)
 “ of the Table to read and perform all Parts
 “ of the Communion-Service there; saying,
 “ That the Bread and Wine being usually
 “ placed in the middle of the Table, which
 “ is about 7 Foot in length, he might hap-
 “ ly do, as others did there before him,
 “ (though he remembreth not to have so
 “ done.

“ done these twelve Years) and step to the
 “ former Part thereof, to consecrate and ble’s
 “ those Elements, which otherwise he could
 “ not conveniently reach; in the mean while
 “ many of the Communicants kneeling as
 “ they use to do, very near to the said Table
 “ within the Rails on either Hand of this
 “ Defendant, whose back was not then to-
 “ wards more of the People, then it would
 “ have been, if he had for that small Space
 “ of Time stood still at the North Side of
 “ the Table; whereunto he always returned
 “ immediately after Distribution of the Sa-
 “ crament was made by him unto the Com-
 “ municants at their several Forms.

2. To the second Article he answereth
 “ as before, That the three Copes mentioned
 “ in the former part of this Article, were
 “ brought into the Church before this De-
 “ fendant’s time, and when Mr. Smart the
 “ Complainant was Prebendary there, who al-
 “ lowed his part of the Charge and Cost of
 “ them all; for they were little worth.

“ And this Defendant denieth, That he
 “ either bought (or joined with any other
 “ to buy) a Cope that was found in Search
 “ for Mass Priests, (whereof he knoweth no-
 “ thing

“ thing) or a Cope that had any Image of
 “ the Trinity imbroidered upon it, whereof,
 “ as in his own Judgment, he doth not ap-
 “ prove, nor can by his undefiled Religion
 “ allow, That any such Image should be
 “ made or used, so he is well assured, that
 “ there is no such Images to be found up-
 “ on any Cope which he ever saw or us’d
 “ in that Church; at his first coming where-
 “ unto he found two open fashion’d Vest-
 “ ments to be there usually worne; of
 “ which by the late Dean’s Appointment
 “ one large Cope was made, but this De-
 “ fendant who was then absent, had no
 “ Hand in ordering it, or directing upon what
 “ part thereof the Story of Christ’s Passion
 “ should be placed : And as for the other
 “ Copes which in the Article is said to
 “ cost about two Hundred Pound it was
 “ never used in that Church, but was pur-
 “ posely made to be presented unto the King’s
 “ Majesty, at the time of his Royal Pro-
 “ gress into Scotland about Eight Years since,
 “ through the City of Durham, from whence
 “ his Majesty presently sent it to White-
 “ hall, for the Use of his Chapel there, and
 “ this being five Years after Mr. Smart’s Ser-
 “ mon was preached, yet nevertheless the same
 Ser-

“ Sermon in the Thirteenth ensuing Article
 “ is pretended and said to have been preach-
 “ ed against the Use of this Cope in the said
 “ Church of Durham. To the last Part of
 “ this Article, this Defendant, answering saith,
 “ That he did never preach, or sit to hear
 “ Service in a Cope; but acknowledgeth that
 “ he did some Time wear a Cope in that
 “ Church at the Administration of the Holy
 “ Communion, as by Law he is enjoyn’d,
 “ which was usually a plain white Sattin
 “ Cope, having no Embroidery upon it at
 “ all.

3. To the 3d Article he denieth, “ That
 “ he did either bring in or practise in the
 “ said Church, any Innovations in Divine
 “ Service, concerning either the Place or
 “ Time or Manner thereof: But averreth,
 “ That at his first coming to that Church, he
 “ found the Six o’ Clock Morning Prayer
 “ (said to have been usually read in former,
 “ Times in a Part of the Cross-Isle) re-
 “ moved into the Quire of the said Church,
 “ which was done (as he can prove) by
 “ a Capitular Act, whereunto the Com-
 “ plainant Mr. Smart gave his Assent, di-
 “ vers Years before this Defendant became
 N Pre-

“ Prebendary there : And he further saith,
 “ That he this Defendant, for his Part, was
 “ so far from taking the said old Morning
 “ Prayer quite away (as in this Article is
 “ alledged) That during his Abode in Dur-
 “ ham, he did most constantly frequent the
 “ same, as well when it was for divers Years
 “ read, as when for a small Time it was
 “ (by Appointment of the late Dean) sung
 “ in the Quire.

“ And whereas at his first coming, he
 “ found it removed from the accustomed
 “ Place of the Church it was by his this De-
 “ fendant’s special Instance and Endeavour,
 “ brought back again to the same Place ;
 “ wherein it hath been read at six of the
 “ Clock in the Morning these Eleven or
 “ Twelve Years last, without any other Al-
 “ teration, except the Supply or Addition
 “ of the first Lesson to it, according to Law,
 “ which had been in former Times neglec-
 “ ted and omitted, when Mr. Smart was Pre-
 “ bendary.

4. To the fourth Article he answereth ne-
 “ gatively, and saith, “ That neither he this
 “ Defendant, nor other the Prebendaries here
 “ impeached, have ever set up any new or
 “ gor-

“ gorgeous Images in the Church; where
 “ are no such Images at all, nor any other
 “ Images to be seen there, but a few small
 “ Figures of Angels (as they have been
 “ commonly call’d) to the Number of about
 “ Seven or Eight and Twenty of them in
 “ a Row, which seem to be made divers
 “ Hundred Years ago, and placed for some
 “ Ornament only upon the upper Parts of
 “ the old Stall-work, on each Side of the
 “ Quire: The whole Frame of which
 “ Work, was about Thirteen Years since,
 “ by the Order of the Dean, and Approbati-
 “ on of the Chapter, decently repaired and
 “ cleansed from some Loads of Birds Dung,
 “ and Cobwebs, wherewith it had been for-
 “ merly oppressed in great Abundance: And
 “ this is that which the Complainant Mr.
 “ Smart now calleth, Setting up of Images:
 “ But the Three Statues of Stone (as they
 “ be in this Article termed) are nothing
 “ else but only the small Tops or Finish-
 “ ings of a high rais’d Tomb, set up long
 “ ago for Bishop Hatfield (who built Dur-
 “ ham House in London) above Two Hund-
 “ red Years since: They stand about Thirteen
 “ Foot high from the Ground, in a side
 “ Place of the Church, not obvious to the
 Eye

“ Eye; and seem not to be above Ten Inches
 “ in length. The Model of all which Tomb
 “ the Defendant is now ready to shew.

5. To the Fifth Article, he saith, “ That
 “ That neither he, nor the said Dean and
 “ Prebendaries, (to his Knowledge) did e-
 “ ver use any excessive Number of Candles
 “ in that Church, nor did they cause more
 “ to be us’d upon a Saint’s Day (as the
 “ Complainant calleth it) than they did upon
 “ the Lord’s Day : Nor did they order
 “ the Candles to be lighted in any super-
 “ stitious Manner. The Number used upon
 “ any Candlemas Night (as it is here in
 “ this Article termed) was not more than
 “ was needful and usual upon the like Fe-
 “ stivals and Sundays in the Time of Christ-
 “ mas, when the Resort of People to the
 “ Church is commonly greater than at o-
 “ ther Times ; at all which Times, and like-
 “ wise during the whole Season of the Year,
 “ no Candles were lighted, and us’d for the
 “ Performance of Divine Service, but when
 “ it was dark, more than were usual and
 “ needful on the like high Festivals, and
 “ Sundays in the Time of Christmas, when
 “ the Resort of People to the Church is
 com-

“ monly greater than at other Times; and
 “ that Sixty Candles were placed upon and
 “ about the said Altar, (as it is here called)
 “ he knoweth not: But upon the Commu-
 “ nion Table in that Church, Two Lights
 “ use only to be set, with a small Number
 “ of little Sizes in the Places near adjoin-
 “ ing, for the better Performance of the
 “ Church Service; and for the Use and Be-
 “ nefit of those Persons that repaired there-
 “ unto, both for singing the Psalms together
 “ with the Quire; and for having the bet-
 “ ter Use of their Books, when the Lessons
 “ and the Prayers were read: For this
 “ End were the Lights set up, and not for
 “ any mysterious or superstitious Purpose,
 “ (as it is here alledged by the Complain-
 “ ant) in a fond Imitation of the Papists.
 “ Nor doth he this Defendant know, that
 “ any Popish Priest spake the Words in this
 “ Article mentioned; nor (whoever he was)
 “ if he did, could he justly so speak; for
 “ the Prebends and Officers of the Church
 “ of Durham had no such Custom of light-
 “ ing Candles in the Day Time, or setting
 “ them up in any superstitious Manner what-
 “ soever, as the Practice of the Papists is.

And

And futher this Defendant denieth, " That
 " he did ever fet up any of the Candles
 " himfelf, other than a fmall Size, that the
 " Virgers of the Church brought to him
 " (as they did to other Prebends) for the
 " Ufe of my own Stall ; nor were any Of-
 " ficers appointed by him to fet up the
 " Lights about the Quire, otherwife than
 " where Need was, and where the Dean
 " himfelf had appointed them to be fet ;
 " which he did both for the Ufe of thofe
 " many Perfons that reforted to the Church
 " Service, and for the preventing of thofe
 " Abufes and Diforders that had been for-
 " merly committed in the dark and obfcure
 " Places there, of the faid Church for want
 " of Lights. He this Defendant likewise
 " denieth that he did ever ftruggle (as in
 " this Article is pretended) with any Man
 " in Time of Prayers, or that he did ever
 " disturb the fame, or otherwife demean
 " himfelf than as became him with Quiet-
 " nefs and Reverence, which he hath been
 " always moft careful to preferve both
 " in that Church, and in all other Places
 " where he had ferved.

" That the Chorifters lighted any Candles,
 " or if they did, it was only to affift the
 Vir-

“ Virgers and other Officers of that Church
 “ to which by Statute it belongeth, but
 “ when they did so, he doth not believe
 “ that they went backward, nor that they
 “ would ever have been suspected much less
 “ appointed by the Officers so to do.

Lastly this Defendant saith and well remembereth, “ that upon frequent Complaints
 “ made both by those under Officers of the
 “ Church and by many People of the City
 “ that resorted thither, he being then Treasurer,
 “ Order was given by the late Dean and
 “ Chapter for a full and sufficient Store of
 “ Wax Lights, to be provided and allowed
 “ according to the Express Letter of
 “ the LOCAL STATUTES of the
 “ Church, whereunto the Complainant Mr.
 “ Smart was then Sworn as well as others.

6. To the Sixth Article, he this Defendant saith, “ That the singing of the Meetre
 “ Psalms was never forbidden, either by him
 “ or by any other (that he knoweth) in
 “ that Church, where he used daily to sing
 “ them himself (as in other Places his Custom
 “ is to do) with the People assembled
 “ at the Six o’ Clock Morning Prayer above
 “ mentioned: But as to the singing of them
 “ before and after the Sermon, (which is at-

“ always there preached in the Quire) the
 “ Use was long before his coming thither,
 “ and is so still, afore the Sermon to sing
 “ the Creed (as the Book of Common Prayer
 “ by Law established doth appoint) and af-
 “ ter the Sermon to sing an Anthem or
 “ Hymn, which that the People might the
 “ better know what was at any Time
 “ sung, was always publickly declared by
 “ one of the Quire-Men, out of what Psalm
 “ (being many Times a Meetre Psalm) or
 “ other Part of Scripture, or the Book of
 “ Common Prayer, the same was taken.

And this Defendant denieth, “ That he
 “ did ever move or cause any Person to
 “ Kneel at the Anthem, but acknowledgeth
 “ that he hath sometimes sent the Virgers
 “ to mind divers careless and negligent Peo-
 “ ple of kneeling at their Prayers, and that
 “ about thirteen or fourteen Years since upon
 “ a Solemn Fast Day, kept by publick
 “ Order in that Church when (as he well
 “ remembreth) the Form of Commination was
 “ read, and the Prayers used that are there-
 “ unto annexed, he did quietly invite and
 “ mind one or two Persons who were then
 “ heedlessly sitting before him, to kneel, as
 “ all others did, at the Recital of the One
 and

“ and Fiftieth Psalm with the Collect following; for so doth the Book of Common Prayer expressly require.

“ But for the Anthem of the Kings of Colen (as in the Impeachment it is called) certain he is, it was never sung in the Church, since he this Defendant came to be Prebendary there, nor (as he hath been informed) in the Memory of Man before, and he hath taken such Order with it, that it is not like to be sung there hereafter; for at his first coming to be chosen Treasurer of that Church, (which was about Fourteen Years ago) he caus'd the said Anthem to be razed and cut out of the Old Song Book belonging to the Quire, and the common School of the Choristers, where it had remained all the Time the Complainant Mr. Smart had been both School Master and Prebendary of the Church before. And further, this Defendant hath frequently shewed his Dislike of singing any Anthem in the Church, which is not either Part of the Holy Scriptures, or a Hymn publickly allowed by Authority.

Lastly, to this Article, he saith, “ That during the Time of his Abode and Residence in that Church, he never knew

“ or observed the Sacrament any Way di-
 “ sturbed, either by the Organ or the Songs
 “ of the Quire, but quietly and reverently
 “ administred at all Times ; yet the Complain-
 “ ant Mr. Smart did continually absent himself
 “ from the Holy Communion (there admini-
 “ stred every first Sunday of the Month at
 “ least) many Years together, both before
 “ this Defendant came to Durham, and all
 “ the while that he lived there ; by which
 “ affected Absence and Abstinence from the
 “ same, he, the Complainant, gave no small
 “ Occasion of Offence and Scandal to Others.

7. To the Seventh Article, he this Defen-
 “ dant saith, “ That the Font was removed
 “ many Years before his Time, from the up-
 “ per Part of the Quire, where it was con-
 “ ceived to stand inconveniently, to the lower
 “ Part of the Church, where all Fonts use
 “ to stand, by the Order of the late Dean and
 “ Chapter then being ; but the Pictures were
 “ thereunto added by the same Dean’s own
 “ and only Appointment, divers Years after
 “ Mr. Smart’s Sermon was preached, which
 “ nevertheless in the Thirteenth Article en-
 “ suing, is said and alledged to have been
 “ preached against them.

8. To

8. To the Eighth Article this Defendant answering, denieth, “ That there is, or in his
 “ Time ever hath been any consecrated Knife
 “ in that Church; and saith, That the Knife
 “ which is usually kept in the Vestry there,
 “ with other like common Things thereunto
 “ belonging, is an ordinary Knife, and laid
 “ there only that it may be ready at Hand
 “ for the Officers of the Church, when at
 “ any Time they come to prepare the Bread
 “ for the Communion, as in other Churches
 “ is usual; but that the same is hallowed
 “ or appropriated to this Use only, and no
 “ other, he this Defendant believeth not;
 “ nor that it was commonly called, or ever
 “ shown by the Name of the consecrated
 “ Knife, unless it were to tell People and
 “ Strangers that sometimes came to see the
 “ Church and Vestry, what new Name the
 “ said Complainant Mr. Smart, and others
 “ his Abbettors had vainly imposed upon
 “ it.

And further the Defendant denieth, “ That
 “ he did ever cross any Cushions or Forms in
 “ that Church, or that it ever enter’d into his
 “ Thoughts so to do; nor can he conceive
 “ from whence this strange Accusation (sug-
 “ gested by some of the Complainant’s In-
 for-

“formers) should arise, unless it be from cer-
 “tain old Crosses wrought and embroidered
 “upon several Cushions (usually laid upon
 “the Stalls and Formes there) as part of
 “the Church Arms; which was done in pro-
 “bability many Years before this Defendant
 “was born.

9, To the Ninth Article he saith and
 believeth, “That the Glasier (who is one
 “and the same with the Painter) was some-
 “times imployed to mend the old broken
 “Windows in the said Church, in regard
 “he was a common Tradesman in the City
 “of Durham, ordinarily employed there by
 “others, because he had Skill to perform
 “such kind of Work; but not in any re-
 “spect had to his Popish Profession; for
 “which he hath been questioned and cen-
 “sured in the High Commission Court at
 “Durham, both by this Defendant, and o-
 “ther Persons in these Articles impeached;
 “and against which Profession, as this Defen-
 “dant and other the Prebendaries of that
 “Church have constantly preached, so that
 “he likewise diligently endeavoured, and
 “through GOD’s gracious Assistance hath
 “both preserved many Persons in our own
 “true Profession, and reduced divers others
 sicm

” from Popery to the Unity of that Faith
 ” and Religion which is publickly estab-
 ” lished in the Church of England.

And this Defendant doth further deny
 what in this Article is objected, that is to
 say, “ The introducing or practising of any
 ” other superstitious Innovations in the said
 ” Church tending to Idolatry ; humbly re-
 ” ferring for the better Manifestation of the
 “ Truth herein, and for the clearing of that
 “ Church from that foul Aspersion of the
 “ Complainant, as well to the diligent In-
 “ spection and Practice of the Reverend Bi-
 “ shop that now is (who hath sate and go-
 “ vern’d in that Place Eight Years toge-
 “ ther, and during all that Time hath not in
 “ his severall Visitations of that Church, orderly
 “ and legally performed, nor otherwise in his
 “ frequent Accesses to the Divine Service
 “ and Administration of the Holy Com-
 “ munion there used, either faulted or de-
 “ prehended any such Innovations among Us)
 “ as likewise in the same humble manner
 “ referring to the Government and Inspec-
 “ tion of his Predecessors, in whose Times
 “ divers Visitations were held, and diligent
 “ Inquiry made by Articles, which were
 “ delivered both to the Complainant Mr.
 Smart

“ Smart, and others the Prebendaries and
 “ Members of that Church to be answered
 “ upon Oath, concerning the Place, Time,
 “ and Manner of performing Divine Duties
 “ there according to the Laws and Customs
 “ in Force within the Church and King-
 “ dom of England; yet neither did the
 “ Complainant Mr. Smart then answering
 “ upon his Oath, and being tied by the
 “ Local Statutes to declare against any
 “ scandalous or superstitious Practices there
 “ used (if any there had been) nor did any
 “ other, that this Defendant ever heard of
 “ complain of Superstition or Innovation in
 “ the said Church; where, whiles he this
 “ Defendant lived, his daily Practice and
 “ Endeavour was truly to serve and hon-
 “ our Almighty GOD, and to keep out as
 “ well all Popish Novelties and Superstition,
 “ as all profane Negligence and Disorder.

10. To the Tenth Article this Defendant
 saith, “ That true it is He preached a Ser-
 “ mon in the said Church of Durham (a-
 “ bout fifteen Years since) upon the Parable
 “ of the Tares; whereat were then pre-
 “ sent the Bishop and Dean, and divers of
 “ the Prebendaries, besides the numerous
 and

“ and common Auditory of the City ; among
 “ all whom there was none that took any
 “ Exception against it ; nor did the Com-
 “ plainant Mr. Smart (who was not pre-
 “ sent at it) go about to accuse this De-
 “ fendant of the Words now alledged in
 “ this Article, till some Years after the Ser-
 “ mon had been preached. Wherein as he
 “ this Defendant constantly denieth, that he
 “ spake the Words complained of, or as they
 “ ly barely in this Article ; so he doth
 “ most truly aver, that he spake the quite
 “ contrary, viz. ‘ You must not think, that
 ‘ when the Reformation of our Church took
 ‘ away the Mass, they took away all
 ‘ Religion or the whole Service of GOD,
 ‘ (as the Papist say they did) adding here-
 ‘ unto, That they had well and justly taken
 ‘ away the Tares of Popery and Super-
 ‘ stition (which had in former Times grown
 ‘ up among us) such as were the Merit of
 ‘ Works, the Worship of Saints and Ima-
 ‘ ges, the Number of Seven Sacraments, the
 ‘ Doctrine of Transubstantiation, &c. And
 ‘ that they had been careful also to keep
 ‘ Christs Rule in the Text, which was, not
 ‘ to pull up the Tares and the Wheat to-
 ‘ gether.

This

“ This was the Summ of the whole Ser-
 “ mon, as may appear by the Original
 “ Writing or Copy thereof, remaining now
 “ with the Committee, that was appointed
 “ for the hearing of the said Mr. Smart’s
 “ Complaint in the House of Commons.

And this Defendant further saith, That
 “ although in some Passages of that Ser-
 “ mon he did acknowledge(as he takes it
 “ to be out of Question, the Doctrine of
 “ the Church of England doth) a True
 “ and Real Presence of Christ in the Sa-
 “ crament to the faithful Receiver thereof;
 “ yet that he meant it not of a Corporeal
 “ but of a Spiritual and Sacramental real
 “ Presence only, was most Plain ; for that he
 “ then likewise said expressly that Transubstan-
 “ tiation (which implied a Corporeal Presence)
 “ was one of the Tares, which the godly Re-
 “ formers of our Church had well and justly
 “ taken away.

“ But for the other Words, wherewith
 “ this Defendant is also in this Article bur-
 “ dened, That the Reformation in Queen
 “ Elizabeth’s Days was a Deformation, he
 “ utterly denieth and detesteth them, and
 “ averreth, That as they are altogether
 “ inconsistent with what he then spake, and de-

“ destructive of the whole Discourse, through-
 “ out the Sermon, so they ne ver came in-
 “ to his Thought.

“ Which Answer he likewise humbly re-
 “ presenteth against that unfavoury Ex-
 “ pression of Ordure instead of Order ; which
 “ Words (easily mistaken by depraved Ears)
 “ he calleth GOD to witness, he never
 “ spake, nor did it ever enter into his Mind
 “ to speak any Words that tended to that
 “ Sense, for he utterly abhorreth them.

11. To the Eleventh Article he saith,
 “ That he had some Three or Four Years
 “ since a Conference with a Papist, a Gentle-
 “ man of the Bishoprick of Durham, who
 “ came to this Defendant to treat with
 “ him, and to be resolved in the Question
 “ between them of his Religion and Ours,
 “ concerning the Antiquity of the Pope’s
 “ Claim to the Supremacy, and universal
 “ Headship over the Church ; wherein, af-
 “ ter much Discourse to and fro, this De-
 “ fendant satisfied him, That there was no
 “ such Claim made by the old Bishops of
 “ Rome, out of St. Gregory’s Testimony
 “ against it, who being Bishop of Rome
 “ himself, said, That neither He, nor any

“ of his Predecessors ever challenged any
 “ such Title; and that whosoever did chal-
 “ lenge it, was the Fore-runner of Anti-
 “ christ: Which Testimony was then shew-
 “ ed unto him out of St. Gregory’s Works,
 “ in this Defendant’s Study; and the Gentle-
 “ man was therewith convinced. After this,
 “ falling into further Discourse upon the
 “ Point of the Sacrament; and objecting,
 ‘ That we in the Church of England did
 ‘ wholly deny the real Presence.’ This
 Defendant answered, ‘ That although we did
 ‘ not acknowledge Transubstantiation; or, a
 ‘ Corporeal Presence; yet we held and taught
 ‘ a true and Spiritual real Presence in the
 ‘ Eucharist, to all that come faithfully and
 ‘ duly prepared to receive him: And to
 ‘ this Purpose he shewed him both the
 ‘ Confession of many learned Protestants,
 ‘ acknowledging CHRIST to be substan-
 ‘ tially, that is, verily, really and indeed
 ‘ present there, after a spiritual and ineffable
 ‘ Manner: And likewise the Common Con-
 ‘ fession of our own Church, set forth in
 ‘ the Articles of Religion; the Catechism
 ‘ that is approved; and the Book of Publick
 ‘ Prayer in the Administration of the bless-
 ‘ ed Sacrament.’ But this Defendant nei-
 ther

“ ther shewed him the new Service Book,
 “ intended for the Church of Scotland, nor
 “ said it was all one with theirs of the
 “ Church of Rome, as in this Article is al-
 “ ledged; for the Truth of that Matter was
 “ That the Gentleman looking into every
 “ Book then lying on a Table in the Study,
 “ and among others lighting upon the Scots
 “ Liturgy, (which had newly been print-
 “ ed) it gave him Occasion to ask, What
 “ Difference there was between that Litur-
 “ gy and ours of the Church of England?
 “ Whereunto this Defendant said, That for
 “ ought he could perceive, there was no
 “ substantial Difference between them at all:
 “ And further, the said Papist, in his en-
 “ suing Discourse, ignorantly affirming, That
 “ neither the Scottish, nor the English Li-
 “ turgy had any Introit or Offertory; no
 “ Epistle or Gospel, no Consecration, Com-
 “ munion or Post-Communion to be seen
 “ in them, as theirs of the Romish Church
 “ had; He, the Defendant thereunto re-
 “ plied, That instead of their Introit, we
 “ had the Lord’s Prayer, wherewith we
 “ begin the Celebration of the Sacrament,
 “ that the Collects, Epistles and Gospels
 “ were all orderly disposed; that the Creed

“ and the Offertory followed ; that the pub-
 “ lick Confession and Absolution ; the
 “ Prayers of Communion and Oblation,
 “ (which they of the Roman Church call
 “ Canon) together with the Thanksgiving
 “ after the Communion, (which they call
 “ the Post-Communion) were far better in
 “ our Liturgy, than in theirs, being all
 “ ways in a Tongue known to the People,
 “ and free from any such vain and super-
 “ stitious Observances as were usual among
 “ them ; besides many other Words to the
 “ same Purpose, wherewith the said Gentle-
 “ man seemed then to be satisfied, and af-
 “ terwards came to our Church.

12. To the Twelfth Article, this De-
 fendant denieth, “ That he ever said, The
 “ King could not be called Supreme Head
 “ of the Church of England : But acknow-
 “ ledgeth, That in a casual Discourse with
 “ some Persons at Durham, about Thir-
 “ teen Years ago, he said, That by the Sta-
 “ tutes of this Realm, now in Force, the
 “ King’s Title was not set forth to be Su-
 “ preme Head of the Church, but Supreme
 “ Governor over all Persons in all Causes,
 “ as well Spiritual as Temporal, so that no
 Fo-

“ Foreign Power, Person, State or Prelate,
 “ had, or ought to have any Jurisdiction
 “ within this Realm, &c. And for the Al-
 “ teration of this Title from Head of the
 “ Church, to Supreme Governor, he this
 “ Defendant did in the same Discourse, at
 “ the Time and Place aforesaid, alledge the
 “ Act of Parliament in the first Year of
 “ Queen Elizabeth, and the first Chapter;
 “ as likewise Bishop Jewell’s Testimony, in
 “ his Defence of the Apology of the Church
 “ of England, who saith there, ‘ That for
 ‘ the Title of Supreme Head, we devis’d
 ‘ it not. 2dly, We use it not. 3dly, Our
 ‘ Princes claim it not. And 4thly, That
 ‘ the Papists intituled King Henry the 8th
 ‘ with that unusual and strange Stile. More-
 ‘ over in his View of the Pope’s seditious
 ‘ Bull set forth to raise Rebellion and de-
 ‘ pose Queen Elizabeth from her Throne,
 ‘ that the same Bishop affirmed and said,
 ‘ That the Queen was never call’d Supreme
 ‘ Head of the Church, either in the Act
 ‘ of Parliament, or in the Records, Rolls,
 ‘ or Writs of Chancery and Exchequer; but
 ‘ that she refused it, and would have none
 ‘ of it, nor ever be so called.’ In further
 “ Confirmation of which Words, this De-
 fen-

“ fendant then did, and is ftill ready to
 “ produce divers other Testimonies of re-
 “ ceived Allowance and Authority.

But he utterly denieth, That he either
 ‘ fpake any Words, or that it ever enter’d into
 ‘ his Thoughts to fpake any, which might
 ‘ in the leaft Manner derogate from His
 ‘ Majefty’s Supremacy in all Matters Ec-
 ‘ clefiastical and Temporal, by the Laws
 ‘ of GOD and this Kingdom formerly e-
 ‘ ftablished; and averreth, That in the faid
 ‘ Difcourfe he fpake many Words in De-
 ‘ fence and Maintenance of the faid Supre-
 ‘ macy; which he is able to prove by the
 ‘ clear Testimony of fundry Persons, who
 ‘ were then and there prefent; and both
 ‘ heard and observ’d well what he faid.

And for further Answer to this Article
 ‘ he faith, ‘ That the Indictments which the
 ‘ Complainant Mr. Smart (after he was call-
 ‘ ed into Queftion for his Sermon in the
 ‘ next Article mentioned) preferred againft
 ‘ this Defendant, at the General Affizes
 ‘ held in Durham, about Eleven Years
 ‘ fince, were thefe: One (as in this Article
 ‘ is declared) concerning the Title of Su-
 ‘ preme Head: Another for ftanding up
 ‘ at the Creed after the Gospel: A third
 for

‘ for standing or kneeling before the Com-
 ‘ munion Table : And a fourth for using
 ‘ the aforesaid Wax Lights in the Church.
 ‘ All which Indictments being brought be-
 ‘ fore Judge Ylverton (then sitting in
 ‘ open Court upon the Bench at the
 ‘ Assizes at Durham) he forbid the
 ‘ Clerk of the Crown to put them upon
 ‘ the File, or to deliver out any Copies
 ‘ of them, and after the Court was risen,
 ‘ he called the Complainant Mr. Smart to
 ‘ him, and caus’d him to take this Defen-
 ‘ dant by the Hand, and promise Peace
 ‘ and Unity with him.

‘ Judge Hutton likewise wrote with
 ‘ his own Hand upon most of these In-
 ‘ dictments, “ That they were not material,
 ‘ nor of any Force in Law:” Which
 ‘ Words as he wrote them, are now ready
 ‘ to be shown.

‘ Lastly, he this Defendant denieth,
 ‘ and from his Heart detesteth all scanda-
 ‘ lous, scornful and malicious Words what-
 ‘ soever, against his Majesty’s Supremacy ;
 ‘ nor doth the aforesaid Indictment, con-
 ‘ cerning the same Supremacy, contain any
 ‘ such Words.

13. To the Thirteenth Article he saith,
 ' That the Sermon of the said Complain-
 ' ant Mr. Smart, neither was, nor could be
 ' preached against all the pretended Inno-
 ' vations in this Article rehears'd: For
 ' the Pictures upon the Font, and the Cope
 ' that was presented to the King's Majesty
 ' (as in the 3d and 7th Articles is for-
 ' merly declared) were not made until five
 ' Years after the said Sermon had been preach-
 ' ed at Durham.

' Wherein this Defendant believeth, That
 ' the said Mr. Smart did most unjustly tax
 ' the said Church with Superstition, Idolatry
 ' and Innovations, and therefore gave great
 ' Offence and Scandal, both by preaching,
 ' and also by publishing the same in Print,
 ' without lawful Authority, or before he
 ' had ever complained in due Course of Law
 ' and Justice, against any such pretended In-
 ' novations.

' And whereas the same Sermon is al-
 ' ledged in this Article not to be scandal-
 ' ous or disagreeable to the Doctrine or Dis-
 ' cipline of the Church of England; this
 ' Defendant doth humbly represent to the
 ' great Wisdom and religious Consideration
 ' of this Honourable Court these Passages fol-

following, as they were utter'd by the
 said Complainant in his said Sermon;
 wherein among many other particular, per-
 sonal, intemperate, and uncharitable In-
 vectives) he declaimed,

First, against the Name and Function
 of a Priest; and thereby preached not on-
 ly against the Book of Common Prayer
 and Administration of the Sacraments in
 the Church of England, together with the
 Book of Ordination of Priests and Dea-
 cons (wherein the Office and Function of
 a Priest is clearly set forth, and the Name
 and Appellation of Priest frequently used;
 yea, and whereby he the Complainant was
 himself also ordained and made a Priest)
 but likewise against the Articles of Reli-
 gion set forth and established as the pub-
 lick Confession of the Church of England,
 and against the Laws and Acts of Parlia-
 ment now in Force within this Realm.
 All which notwithstanding, he said, preach-
 ed and maintained in this his Sermon,
 Page 8. That it was a Popish Opinion to
 say there be any Priests in the Church
 of Christ, and Page 13. That whoever call-
 ed themselves Priests, were Fools and
 Blind, fond and ignorant Teachers.

‘ Secondly, Against the publick Use and
 ‘ daily Performance of Divine Service, not
 ‘ only in the Church of Durham, but like-
 ‘ wise in all other Cathedral and Collegiate
 ‘ Churches, by Religion and Law confirm-
 ‘ ed within this Kingdom, preaching plain-
 ‘ ly against them all, and saying, Page 21.
 “ These cry the Service of God, when in-
 “ deed their whole Service is little else than
 “ superstitious Vanity ; and Page 21. To
 “ sing in the Church is a base Employ-
 “ ment ; and Page 24. Though our Liturgy
 “ be not in Latin, yet Order is taken by
 “ Confus’dness of Voices, some Squeaking,
 “ some Bleating, some Roaring and Thun-
 “ dering, with a Multitude of melodious
 “ Instruments, that the greatest Part of
 “ the Service is no better understood than if
 “ it were in Hebrew or Irish. And ibid.
 “ The Choristers and Singing Men shout and
 “ cry, and make sweet Apollonian Harmo-
 “ ny. And Page 25. How dare you Com-
 “ municate with Us, in these our supersti-
 “ tious Vanities ? Have you not Churches
 “ at Home in your own Parishes, where
 “ you may receive the Communion, without
 “ such All-a-flantaras ?

Thirdly,

' Thirdly, against the Bishop, Dean and
 ' Prebendaries of the Church of Durham,
 ' and their lawful Directions and Practice ;
 ' there saying, pag. 10. Their Guides are in
 ' fault, Blind Guides, Members of our Church,
 ' rotten Members, I doubt, of higher Degree.
 ' pag. 19. You that stand, Mark what I say,
 ' you that stand at the Creed after the Gos-
 ' pel, are to be punished for obeying such
 ' unlawful Commands.

' Fourthly against the King's Majesty's
 ' Chappel, concerning which he averreth and
 ' telleth all People, that what is done and
 ' used there in the King's Chappel is con-
 ' trary to his Laws. pag. 32.

' All which (besides many other con-
 ' tumelious Speeches in the said Sermon)
 ' tending not only to the Reproach of Di-
 ' vine Service usually performed and celebra-
 ' ted in the Cathedral and Collegiate Churches
 ' of this Realm, but to the Contempt al-
 ' so of divers godly Laws established, and
 ' to the great Danger of a seditious Schism
 ' and much Disorder among the People,
 ' this Defendant with many others concei-
 ' ved to be scandalous and repugnant to
 ' the Doctrine and Discipline of the Church
 ' of England.

14. To the fourteenth Article this Defendant answereth, ' That he did not turbulently demean himself at the hearing of the said Sermon, for the preaching whereof, at what precise Time, and by what particular Persons the Complainant Mr. Smart was questioned, and what Copy thereof was then delievered, or what Order was taken for transcribing the same, this Defendant cannot now perfectly remember, it being almost thirteen Years since; and for more Certainty humbly referreth to the Register, and the Acts of the High Commission Court of Durham, which were sped in that Cause.

' But that the Dean and Prebendaries did break up any Seals, contrary to a former Order, or, that they wrote out Copies of any imperfect Notes of that Sermon; or, that they sent any such imperfect Notes to London, he this Defendant doth not know, nor believeth to be true: Denying also that he sought or asked any Advice for the breaking up of Mr. Smart's Study Doors, to search for Papers there, only acknowledging, that either he this Defendant, or the said Dean, or some of the Prebendaries then pre-

present, inquired of a Councillor at Law,
 (who was at that Time in Company with
 them, and had been sent for to be con-
 sulted) what lawful Course might be ta-
 ken to procure a Copy of that Sermon,
 in Case Mr. Smart should refuse to de-
 liver it, Whereunto this answer was re-
 turned, that he thought Mr. Smart would
 not refuse it, or if he did, the High Com-
 missioners had Power to proceed against
 him by legal Censures : But that there
 was any Speech of searching for Papers, or
 that any the least mention was made of
 the Lords of the Council to be sought
 unto, or followed for that Purpose, this
 Defendant as he heard no such Matter,
 so he doth not believe it.

And he further saith, That he was not
 at any Time after either Informer or Pro-
 secutor against the said Mr. Smart in any
 Court whatsoever, who in the High Com-
 mission at Durham was not censured by
 any Act of Sequestration, or otherwise,
 save only by an Act of Suspension, ab
 Ingressu Ecclesiæ Cathedralis Duelm.
 which was done, in hope that thereby
 being made sensible of his Error, he might
 have been the sooner reclaimed from it,
 as

‘ as likewise for the preventing of further
 ‘ scandal and disorder in that Church, which
 ‘ might otherwise have ensued.

‘ In the mean while this Defendant re-
 ‘ membeth well and believeth, That there
 ‘ was a Sequestration made of his the said
 ‘ Mr. Smart’s Prebendal Profits, by the
 ‘ Dean and Chapter of the Church, (and
 ‘ not by the High Commission) whereunto
 ‘ they thought themselves bound by their
 ‘ Local Statutes ; but the same was by the
 ‘ common Consent of them All (among
 ‘ whom this Defendant was one) so order’d,
 ‘ that it was never put in Execution ; nor
 ‘ did Mr. Smart suffer any Damage by it
 ‘ at all.

‘ The personal Attendance (whereof he
 ‘ complaineth) for Four or Five several
 ‘ Court Days, in the said High Commis-
 ‘ sion at Durham (at some of which Court
 ‘ Days this Defendant was not present)
 ‘ could not be very grievous to him ; for
 ‘ his Dwelling-House was near at Hand. Nor
 ‘ was he excommunicated, (as is pretended)
 ‘ nor were any Pains of Excommunication
 ‘ (that this Defendant knoweth) ever inflict-
 ‘ ed upon him.

And

And the Reason why the preferring of
 further and more particular Articles in
 that Court against him was so long de-
 ferred, this Defendant believeth to be
 partly Mr. Smart's own Desire, that he
 might be free from them, and partly the
 Desire which the said Commissioners them-
 selves had peaceably and friendly to re-
 claim him, without any further Proceed-
 ings against him in the Court; for which
 Purpose Mr. Ferdinand Moorecroft, and
 Mr. Robson, Prebendaries of the said
 Church, as likewise this Defendant, did
 at several Times privately confer with
 with him, and endeavoured to perswade
 him, that he would make a fair and clear
 Declaration of himself, for the taking a-
 way of that Offence and Scandal which
 he had given by his Sermon aforesaid,
 and thereby be reconciled unto the Church.

And further, for the same Purpose this
 Defendant (with the Knowledge and Ad-
 vice of those aforenamed, and some other
 Prebendaries) propos'd a Draught in Writ-
 ing of such a Declaration to be made by
 him the Complainant, who when he had
 seen it, and heard it read to him, found it to
 be so moderate, that he seemed to be then
 well

well pleas'd with it, and gave this Defendant Thanks for it; though nevertheless, afterwards, either upon new Thoughts of his own, or by the Perswasion of some other Persons, he changed his Mind, and would not hear of any Declaration, or any Reconciliation at all.

Whereupon the said Commissioners having thus sought by all fair Means to reclaim him, and finding him to persist in his former Course, did, at the next Session of the Court exhibit further Articles against him, and when he had given in his Answer thereunto, they allowed him to appear by his Proctor. But after a while receiving Intimation from the High Commissioners at London, that he was called by Letters Missive to Answer his Case there

They proceeded no further in it at Durham, but by an Act of Court left and transmitted it to the Commissioners at London, from whence at Mr. Smart's own Desire it was afterwards remitted to the Archbishop and High Commission Court at York.

15. To the Fifteenth Article this Defendant

fendant answereth, ' That in the Proceedings
 ' against the Complainant at the said Courts
 ' in London and York, he this Defendant
 ' had no Hand medling at all, farther than
 ' by setting his Hand to a Letter written
 ' by the late Dean and Eight Prebendaries
 ' of Durham, besides himself (being all
 ' thereunto moved at the special Instance of
 ' Judge Yelverton) to the Archbishop of
 ' York that then was, and the rest in Com-
 ' mission then with him, on the behalf of
 ' Mr. Smart (wherein they represented their
 ' joint Desires for all lawful Favour to be
 ' shewed him upon the reclaiming of his
 ' Error, and for reducing him to a religious
 ' Peace and Unity with them all.

16. To the sixteenth Article this De-
 fendant clearly answereth, ' That he had
 ' no intermedling Hand at all in any of the
 ' Censures against the Complainant therein
 ' mentioned, neither by solliciting or prose-
 ' cuting the Matter directly or indirectly, in
 ' any Sort whatsoever, otherwise than he
 ' hath formerly fully and truly declared.
 ' Nor did he any other Act, whereby the
 ' said Complainant Mr. Smart suffered any
 ' of the least Oppression, either by Restraint
 ' of his Person, or Loss of his Estate.

R

17. To

17, ' To the Seventeenth Article, this
' Defendant saith, that he is not concerned
' therein.

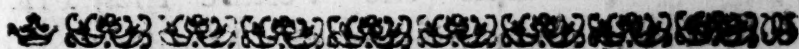
18. ' To the Eighteenth Article, he like-
' wise saith, that he is not concerned in it,
' nor had he any Knowledge of the Par-
' ticulars mentioned in the same.

' And this plain and clear Truth for
' Answer to all those Things in the Eigh-
' teenth Article charged either jointly or se-
' verally upon the Defendant, he doth with
' all lowliness of Mind submit to the just
' and prudent Consideration of this High
' and Honourable Court, and shall be ready
' to make Proof in such Manner as your
' Lordships shall be pleas'd to appoint.
' Nevertheless in like humble Manner pray-
' ing your Lordships wonted Clemency and
' Favour, and the Benefit of his Majesty's
' most gracious and free Pardon granted
' unto him this Defendant under the Great
' Seal of England, bearing Date the Seventh
' Day of January in the fourth Year of
' his Majesty's Reign that now is, and be-
' ing ready to be shewed forth to your
' Lordships ; Whereby this Defendant doth
' humbly conceive, that if he doth unwit-
' tingly in any thing offend touching
the

' the Matter charged on him, the same is
 ' by his Majesty graciously pardoned. Al-
 ' though in the Faith of a Christian this
 ' Defendant doth also humbly profess, that
 ' he is not conscious to himself in the least
 ' sort of having said or done any Thing
 ' whereby to scandalize Religion, or to per-
 ' vert Justice and the Laws Ecclesiastical
 ' and Temporal of this Realm, which GOD
 ' long preserve.

Presented upon Oath,
 May 28. 1641.

JOHN COSIN.



The Editor hopes the following Obser-
 vations upon this virulent Sermon, proper
 to rectify such his Accusations, and detect
 his Ignorance, to say no more.

Smart's Sermon, Pag. 11. Paragraph 5.

" But the Mass coming in, brings in with
 " it an Innundation of Ceremonies, Crosses,
 " and Crucifixes, and Chalices, and Images,
 " and Copes, and Candlesticks and Tapers,
 " and Basons, and a thousand such Trinkets,
 " which attend upon the Mass.

All which we have seen in this Church,
 since the Communion-Table was turned in-
 to an Altar,

With the first Bishops Bible of Q. Eliz's. Reign, printed 1566, is publish'd the Book of Common Prayer, the 2d Rubrick whereof, is,

' And here is to be noted, that the Minister at the Time of the Communion, and at all other Times in his Ministration shall use such Ornaments in the Church as were in use by Authority of Parliament, in the Second Year of the Reign of King Edward the 6th, when the first Common Prayer Book was ratified very fully, which in the fourth Rubrick directs the Vesture the Priest shall put upon him at the Ministration of the Holy Communion, that is to say, a White Albe, plain, with a Vestment or Cope; and the Assistant Priests or Deacons, shall have upon them likewise the Vestures appointed for their Ministry, that is to say, Albes, and Tunicles.

Now, does not this Puritanical snarling at these innocent, and by Statute commanded and ratified Vestments, fully indicate the inveterate Humour of these Puritans, no longer to obey the Laws of the Land, than agrees with the sturdy Dispositions of the Governors of their Squeamish Consciences, as appears by their rude Behaviour in Queen
E-

Elizabeth's Reign from the beginning thereof, particularly in their rebellious Admonitions to her Parliaments, too well known to need further Enlargements.

Smart's Sermon, pag. 11. Paragraph 6.

“ Yet indeed it is no Altar that's but a
 “ Nick-name, it is wrongfully so called. For
 “ if it be an Altar there must needs be
 “ a Sacrifice offered by a Priest to GOD ;
 “ but in the Communion nothing is offered
 “ to GOD but Prayers, but Praise, and
 “ Thanksgiving, which the Hearts and
 “ Lips of all faithful Communicants offer
 “ to GOD by their Mediator Christ ; and
 “ pag. 9. Paragr. 4. to the same Purpose.

Having so good a Proof of Mr. Smart's repeated withdrawing himself from the Sacrament in the Cathedral at Durham, for many Years together as Dr. Cofin's Answer to the Articles, N. 6. pag. 106. I fear he has been more guilty at his Rectory of Bolden, not only of not receiving, but of not administering the Sacrament. Could he have forgotten these Words, “ And here
 “ we offer and present unto the (Lord) our
 “ self, our Souls, and Bodies, to be a reasonable,

“ able, holy and lively Sacrifice unto thee.
 --- And although we be unworthy (through
 our manifold Sins) to offer unto thee any
 Sacrifice ; yet we beseech thee to accept
 this our bounden Duty and Service.

This I transcribe from King Edward the
 Sixth's Book of Common Prayer, noted, pub-
 lished in Quarto, and imprinted by Richard
 Grafton, Printer to the King's Majesty, 1550.
 three Years after the first Common Prayer
 of that King, and is a convincing Evidence
 that Prince was fully satisfied in the Reason-
 ableness of Musick in the Service of GOD,
 by commanding this Edition of the Com-
 mon Prayer noted and set to Musick for
 the publick Use of the Church, the Vo-
 lume concluding thus, Cum Privilegio ad im-
 primendum solum.

My two Quotations are not only in both
 the Editions of King Edward's Common
 Prayer, but are continued to this Day in
 the Liturgy of the Church of England.

In the same Volume the Administration
 is concluded with the Lord's Prayer, after
 which succeed likewise, Nineteen short
 Hymns, or Verses of Scripture, noted to
 Musick, under the Title of Post-Communion.

'Tis

'Tis with Reluctancy I produce the following Passage out of this Sermon, and confess it ought to rest in Obscurity with it's Author, but without this I may be traduced as unable to find any Faults in this Sermon. Page 16. Paragraph 4.

" The Lord's Table therefore, and the
 " Font they are both Altars alike, as
 " an Apple and an Egg are Onions both
 " alike, that is, neither of them properly
 " and truly, though they have a kind of
 " Resemblance ; and being both alike of
 " equal Worthiness, why are they so far
 " put asunder, the whole length of the
 " Church, one at the Head, and the other
 " at the Foot.

The two next Paragraphs being to the same Purpose I omit.

The Reason of this Distance is obvious to any considerate Observer, that the Font is most commonly used upon Week Days (except in very Populous Parishes) upon the necessary Occasions of the Parents, who are however admonished to have their Children baptized upon Sundays and other Holy Days, that the Congregation there present may testify the receiving of the newly baptized into the Number of Christ's Church.

Page

Page 24. Paragraph 4.

“ Our young Apollo repaireth the Quire,
 “ and sets it out gaily with strange Baby-
 “ lonish Ornaments; the hallowed Priests
 “ dance about the Altar, making pretty
 “ Sport and fine Pastime, with Trippings
 “ and Turnings, and Crossings and Crouch-
 “ ings; while Dryopesque pictique Agathyrsi,
 “ Choristers and Singing Men, and parti-
 “ coloured Cope-wearers, fremunt, they shout
 “ and cry, and make most sweet Apollonian
 “ Harmony.”

This is visibly pointed against Dr. Cofin,
 then present in the Cathedral; an apparent
 Instance of the inveterate Malice of the
 Preacher; but much more of his being de-
 stitute of every Degree of Christian Charity,
 and is a convincing Proof of his Puritanical
 Inclinations.

Next follows Mr. Smart's Petition to
 the Lords and Commons, with Chancellor
 Burwell's Annotations, rectifying some of the
 Petitioner's premeditated Falshoods, and just-
 ly chastising his insolent Familiarity.

To

To the Lords and Commons in Parliament
assembled,

“ The humble Petition of Peter Smart,
“ a distressed Minister of GOD’s Word,
Sheweth,

‘ **T**HAT your poor Petitioner hath
‘ spent above Fifty Pound, and al-
‘ most a Years Time, in Prosecution of your
‘ Lordships last Order to certain Referrees
‘ for the speedy relieving your Petitioner,
‘ out of the Money justly due unto him, as
‘ Prebend of Durham. Your Petitioner hath
‘ received but 100 l. of 600 l. which is
‘ Arrear unto him, as by the Certificate un-
‘ der Mr. Marshal’s Hand, Receiver of the
‘ Rents of the Dean and Chapter there,
‘ doth appear. That the said doth (a) re-
‘ fuse to pay the Remainder of the said
‘ Sum, which is 480 l. whereby your Pe-
‘ titioner is driven to the extremest Wants
‘ imaginable, in his weak, sick, old Age,
‘ now at the very point of (b) perishing for
‘ necessary Subsistence. That by the Cer-
‘ tificate of the Referrees hereunto annexed,
‘ it doth appear, that W. Bennet, Symon
‘ Lakenby, W. Hall, John Smith, Mrs.
S Daw-

(a) And will still to my Knowledge. (b) Haud
credo.

Dawson, Robert Bellarby, W. Whitfield
 Tennants to your Petitioner ; John Clement, Mrs. Hester Carre, Mr. Tho. Carre,
 and Mr. Rich. Carre, stand in Contempt
 of the said Order of this Honourable
 House, by refusing to pay to the Petitioner
 the several Sums of Money found due un-
 to him by the said Referrees. That by
 an Order of (c) Sequestration made by
 Tho. Burwell Chancellor of Duresme, one
 of the Delinquents (d) impeached by the
 the Honourable House of Commons, there
 was 144 l. of your Petitioners Money (e)
 received from his Tennants of Aycliffe, and
 dispos'd of according to the said Burwell's
 (f) Order in the pretended Chancery (g)
 Court of Duresme. And that one Mr. John
 Heath received likewise above Sixty Pound
 of your Petitioner's Rents, during the
 Time of the Earl of Newcastle's being in
 the North, by Reason whereof, your Pe-
 titioner was then, and is now driven into
 great Necessity and Want.

In

(c) Which Sequestration was granted at the In-
 stance of the Dean and Chapter the Patrons thereof,
 before ever Mr. Smart was nominated thereunto: (d)
 Inauditum, unless he means all in general, Bishops,
 Deans and Chancellors, &c: (e) Not one Penny ei-
 ther by the Chancellor or his Directions. (f) False;
 for if so, let him produce such an express Order. (g) Here
 is either Vitium Scriptoris, or Ignorance in the Clerk
 that drew the Petition.

' In tender Consideration whereof, your
 ' Petitioner prayeth this Honourable House
 ' expressely to order the said (h) Gilbert Mar-
 ' shall, to pay your Petitioner the said 480 l.
 ' due unto your Petitioner, according unto
 ' his own Certificate hereunto annexed; upon
 ' sight of the said Order, or to appear before
 ' this Honourable House to answer the Con-
 ' tempt herein, and likewise to order him
 ' the said Mr. Marshall, (i) or Receiver of
 ' the said Dean and Chapters Rents for the
 ' Time being, to pay to your Petitioner such
 ' Sums of Money, as shall be due from Time
 ' to Time, for his Stipend and Dividend as
 ' (k) formerly. And that a Messenger be a-
 ' warded from this Honourable House to
 ' bring before your Honours the said Parties,
 ' to answer before your Lordships their
 ' Contempts in not obeying your said Order
 ' unto the (l) Referrees, in not giving your
 Pe-

(h) Very fond ; for it is improper to say the said
 Gilbert, unless he had been called by that Name before
 in the same Writing. (i) This OR, is the most per-
 tinent Clause in the whole Petition, for Mr. Marshall
 hath no patent of the Receiver's place ; and if once
 put out, this Order will do no good upon him: (k)
 The only prebendary in the Kingdom, if the Word for-
 merly, will bear it: (l) You see by this, that there
 was a former Order, wherein there were certain Re-
 ferrees named ; and that the aforementioned parties had
 run in Contempt of the said Order ; and Burwell and
 Heath are but newly foisted into this last Order, for
 Company.

‘ Petitioner satisfaction. And lastly that
 ‘ your Petitioner may be satisfied for the
 ‘ said 144 l. and 60 l. out of the Estates of
 ‘ the said Burwell and Heath, which are
 ‘ now under (m) Sequestration for their De-
 ‘ linquency.

And your Petitioner shall daily pray, &c.

PETER SMART.

(m) Notoriously false ; for if so, why do they not
 call the Sequestrators of the Chancellor's Estate to an
 Account, and so pay themselves ; indeed there is no-
 thing to sequester

The Order of the House of Lords upon
 Smart's Petition.

‘ **D**IE Jovis 28. May 1646. Upon read-
 ‘ ing the Petition of Peter Smart
 ‘ Clerk, in the House, complaining that the
 ‘ Sum of 480 l. is arreared and unpaid un-
 ‘ to him contrary to a former Order of
 ‘ this House, as by Certificate of Gilbert
 ‘ Marshall Receiver of the Revenues be-
 ‘ longing to the Bishoprick of Duresme,
 ‘ doth appear, who doth refuse to pay to
 ‘ the Petitioner the said Sum, notwithstan-
 ‘ ding his Certificate, acknowledging the said
 ‘ Money to be due unto him. And where-
 ‘ as 144 l. was received of your Petitioner's
 ‘ Tennants, by Order of Thomas Burwell,
 whose

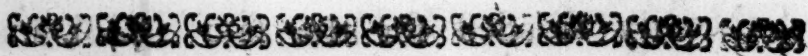
' whose Estate is under Sequestration, and
 ' one Mr. Heath received 60 l. of the Pe-
 ' titioner's Rents when the Earl of Newcastle
 ' was in the North. It is ordered by the
 ' Lords in Parliament assembled, That the
 ' said Gilbert Marshall, or the Receiver for
 ' the Time being of the said Dean and
 ' Chapters Rents, shall from henceforth pay
 ' yearly unto the said Mr. Smart, or his
 ' Assigns, his Stipend or Dividend as former-
 ' ly it hath been settled ; and shall upon
 ' Sight of this Order pay likewise the full
 ' Sum of 480 l. according to his own Cer-
 ' tificate. And that the Petitioner may be
 ' speedily satisfied for the said 144 l. and
 ' 60 l. out of the Estates of the said Bur-
 ' well and Heath, which are now under
 ' Sequestration for their Delinquency. And
 ' lastly that such as by Affidavit produced
 ' in this House shall be found to have dis-
 ' obeyed any former Order, shall be sent for
 ' as Delinquents.

JOHN BROWN, Cler. Parl.

' **D**IE Veneris 4^o. February 1647. Upon
 ' the humble Petition of Mr. Peter
 ' Smart, complaining, that there is about 500
 ' l. arreared out of the Receipts of the
 Dean

‘ Dean and Chapter of Duresme; 204 l. due
 ‘ from one Burwell and Heath by Virtue
 ‘ of the said Order, &c. It is therefore
 ‘ ordered by the said Lords assembled in
 ‘ Parliament that. — And likewise to levy
 ‘ and distrain the Lands, Goods, and Offices
 ‘ of the said Burwell and Heath, their Ten-
 ‘ nants and other in Possession thereof for
 ‘ their Uses, for the Payment of the said
 ‘ 204 l. due to the said Mr. Smart, as is
 ‘ aforesaid : And for their so doing, this shall
 ‘ be their Warrant. And, &c.

JOHN BROWN.



The Answer of William Church Batche-
 lor at Law, Surrogate of Mr. Tho-
 mas Burwell, Chancellor of the Diocese
 of Durham, made to so much of the se-
 veral Orders of the Right Honourable
 the House of Lords (viz.) to that
 Die Jovis, 28^o. Maij 1646. and die
 Veneris 4^o. Februarij 1647. upon the
 Petition of Mr. Peter Smart, late Pre-
 bendary of the Church of Durham, as
 concerned the said Mr. Burwell.

IN

IN the first Place he yeildeth all due Obedience to the said several Orders : And he hopeth and verily believeth That that Honourable House, upon true Information given (the Petition of the said Mr. Smart being grounded altogether upon false Suggestions, upon which the several Orders issued) will not deny any Man his just Plea and Defence, and humbly submit-eth to their Honours, these Particulars following,

1. ' That the Vicarage of Aycliffe is none
' of those Livings Mr. Smart was deprived
' of by the High Commission of Durham,
' York or Canterbury.
2. ' That upon the Death of Dr. Carre,
' the last Incumbent, a Sequestration of the
' Profits was granted by the Ordinary of
' the Diocese, according to Law, the Church
' being then void, to the Church-Wardens
' for the Preservation of the said Profits,
' for the Use of the next Incumbent, at
' the Instance of the Dean and Chapter,
' the Patrons thereof, and good Bond en-
' tered into for that Purpose.
3. ' That after such Sequestration granted,
' as aforesaid, at the Request of the House
' of Lords, the Vicarage of Aycliff was grant-
ed

' ed by the Patrons thereof to Mr. Smart,
 ' who absolutely refus'd it, and desired it
 ' might be conferred on one Mr. Carwardine,
 ' who enjoyed it for a long Time after :
 ' But upon what Terms the said Mr. Car-
 ' wardine left it, is unknown; so that if
 ' there be any Sum or Sums of Money yet
 ' remaining in the said Sequestrators Hands,
 ' it ought of Right to belong rather to
 ' the said Mr. Carwardine, as being the next
 ' Incumbent, and not unto the said Mr.
 ' Smart: And that one Mr. Wilkinson
 ' doth at present enjoy the said Vicarage
 ' of Aycliffe, and hath so done for the Space
 ' of Two or Three Years last past, with-
 ' out the least Interruption or Molestation
 ' of the said Mr. Smart, neither ever did
 ' he, or as yet doth look after the same.

' 4. That the said Mr. Smart was ac-
 ' cordingly presented to the said Vicarage
 ' by the Dean and Chapter aforesaid to
 ' the Bishop of Durham; but he never would
 ' take Institution, or was inducted thereunto,
 ' either from the Bishop or the Parliament,
 ' nor hath to this Day.

' 5. That without Institution and Inducti-
 ' on, Mr. Smart neither by the Civil or Com-

‘ mon Law, hath any Interest in the Tythes
 ‘ of Aycliffe, aforesaid.

6. ‘ That Mr. Smart upon the granting
 ‘ of the Presentation refused to come to the
 ‘ Chancellor to take the Sequestration, al-
 ‘ beit he then was at London, and unjustly
 ‘ prosecuted by him : And that the said
 ‘ Mr. Smart was likewise in the Country
 ‘ not long after the said Sequestration was
 ‘ granted, and might have called the Se-
 ‘ questrators themselves to an Account, if
 ‘ he had pleased, or had any Right thereunto.

7. ‘ That no one Penny is disposed of by
 ‘ Order of the Chancellor, as is falsely sug-
 ‘ getted in the said Petition, and upon
 ‘ which the Orders are granted, but on-
 ‘ ly to the Curate for serving the Cure,
 ‘ and to the Church-wardens for their Pains,
 ‘ which was never yet contradicted by Law :
 ‘ The rest is paid by Order either of
 ‘ the Committee of Durham in Sessments,
 ‘ or by Sir Thomas Riddell by Military
 ‘ Demand towards the Use of Tinmouth-
 ‘ Castle, as appears by the Account of the
 ‘ said Sequestrators.

8. ‘ That the said Account of the Church
 ‘ Wardens, by the Sequestrators aforesaid, was
 ‘ admitted with the usual Clauses of Quatenus

' de jure sit admittendus, si modo nulla fraus
 ' vel dolus, &c. and Salvo jure cujusunque,
 ' So that if Mr. Smart hath Right to the
 ' Tithes aforesaid, he may yet demand them
 ' of the Sequestrators themselves, who have
 ' entered Bond to Pay them to the next
 ' Incumbent, which Bond is yet extant in
 ' the Office and of Force.

9. ' That Mr. Burwell is not sequestred,
 ' as is likewise falsely suggested in the said
 ' Petition, neither knows Cause why he
 ' should, being no Delinquent, and is so de-
 ' clared by the Committee of the said Coun-
 ' ty as may appear by a Certificate thereof
 ' under the Hand of their Clerk.

' These several Particulars he humbly sub-
 ' miteth as aforesaid, always saving and re-
 ' serving unto the said Mr. Burwell what
 ' he shall further hereafter plead or declare
 ' for himself in his own just Defence.

Mr. Smart's Letter without Superscription.

BEcause Mr. Gilbert Marshall and An-
 thony Smith refuses to pay Me the
 Two l. Dividend, &c. I have us'd Means to
 the Parliament to be Receiver of the Dean
 and Chapter Rents myself, and my Deputies,
 for

for the Term of my Life, I mean to use Robert King and you about that Business, who have had long Experience therein, and to restore my Son and Robert King to the Register and Auditor's Office, which was wrongfully taken from them by Bullock, and Abraham Clark.

Mr. Thomas Marshall mean to come to the Country very shortly, when he hath perfected Mr. Wilkinson's Business, of whom you shall understand my Mind more at large. We are all well GOD be prais'd.

PETER SMART.

London, Feb. 22, 1647.

Exrtact of Mr. Smart's Letter to his Deputy at Durham, Mr. Richard Hutchinson, the latter part thereof.

‘ **A**S for Burwell and Heath my Wonder
 ‘ is increas'd by your Carriage towards
 ‘ them and Reasons on their Behalf in your
 ‘ Letter. You say you told Mr. Church
 ‘ you had Order to seize upon his Person;
 ‘ I know no such Order that you had, you
 ‘ have Order to seize upon his Goods, if
 ‘ he hath any, for the Profits he hath recei-
 ‘ ved out of the Office since May 22d 1646.
 ‘ You

‘ You say that you cannot seize upon Bur-
 ‘ well’s Office in Durham, because it never
 ‘ was under Sequestration, and is an Office
 ‘ of Trust, which cannot be extended for
 ‘ any Debt whatsoever.

‘ For the First, for the Clause in the Order
 ‘ in May 1646, which takes Notice of the
 ‘ Sequestration, it was intended by the Lords
 ‘ in my Favour, to the end I should not be
 ‘ defrauded of my Right under Pretence of
 ‘ Sequestration, but you pervert it now to
 ‘ my Hindrance, you will find the express
 ‘ Words of the last Order are, that I should
 ‘ be paid the 204 l. mentioned in the Or-
 ‘ der of the 22d of May 1646, out of the
 ‘ Lands, Goods, and Offices of the said Bur-
 ‘ well and Heath (which is John Heath
 ‘ Thomas Burwell expressly named in the
 ‘ Order) so the wanting their Christian
 ‘ Names in the latter Order is a Cavill of
 ‘ of no Ground for you not to Seize that
 ‘ Office, and John Heath’s Lands at Old Dur-
 ‘ ham and elsewhere, and Thomas Burwell’s
 ‘ Office at Durham, and William Church’s
 ‘ Goods for the 104 l. with good Charges,
 ‘ for the Trouble and Charges in seeking it,
 ‘ and I will defend you from any Peril in
 ‘ Execution of that Order, and these In-
 fructi-

structions.

‘ For the Second, you say it is an Office
 ‘ of Trust and cannot be seized, but I tell
 ‘ you, that legally it may in the ordinary
 ‘ Course of Law be seized upon for a Debt as
 ‘ Burwell’s Freehold for his Life, much
 ‘ more by the extraordinary Power of the
 ‘ Lords in Parliament, which if any have a
 ‘ Mind to dispute, I believe they will lay by
 ‘ the Heels at the best for their Sawciness.

‘ What you mean by saying Ogle is not
 ‘ a Justice of the Peace, I know not, the
 ‘ rather that you have blotted out some-
 ‘ thing that follows, except you intend, to-
 ‘ gether with them to affront Mr. Ogle, and
 ‘ me through him. I tell you if Mr. Ogle
 ‘ had list’d to comply with those Courses,
 ‘ which it seems Burwell hath done, if he
 ‘ be not sequestred, he might not only
 ‘ have been a Justice of Peace, but have
 ‘ had a greater Command there and else-
 ‘ where.

‘ ‘ For the Paper you send inclos’d, sub-
 ‘ scribed by Church, I wonder from whom
 ‘ you have Commission to receive Answers
 ‘ from him, especially when you were in-
 ‘ form’d it was Scandalous and Lies ; or,
 ‘ why you should be his Messenger, or I
 his

' his Solicitor unto the Lords; Church in
 ' so Thinking and Saying is both a Fool
 ' and a Knave; I smother'd not his An-
 ' swer when it was legally taken before
 ' the Referrees at Durham, it remains up-
 ' on Record in the Lord's House, and was
 ' the Foundation of this Order, which you
 ' have now to execute upon him; and so
 ' the Saddle is set upon the right Horse:
 ' For who is so fit to bear the Burthen as
 ' Burwell, who most unjustly and maliciously
 ' did make that Sequestration, on purpose to
 ' defraud me and my Substitute Mr. Car-
 ' adine of the Profits. Pray therefore, as
 ' you respect me or your Friends here that
 ' have imployed you, loose no more Time;
 ' but if they will not pay you the 204
 ' l. Seize upon Mr. Tho. Burwell's Office
 ' in Durham, and Mr. John Heath's Lands
 ' and Goods in Old Durham and elsewhere,
 ' and the Goods of William Church where
 ' you can find them; in which Act I
 ' will justify and defend you against them,
 ' or any that will take their Parts, let
 ' them complain when they will.

' I wish you go no farther than the Order
 ' doth warrant you, which relates to the same
 ' Heath and Burwell mentioned in the Or-
 der

der of the 22d of May 1646, which I
 gave you in print before, and now send
 you one inclosed. Therefore I hope you
 will loose no more time in attending upon
 their false and foolish Cavils, and so I shall
 have a better Construction of your Proceed-
 ings then I have yet. And so hoping
 that without Delay you will execute this my
 Order and return up all my Money by
 Bill of Exchange the next Post. So I rest,
 Your loving Friend.
 PETER SMART.

London, the 18th of April 1648.

Answer to the Letter aforesaid, by Rich-
 ard Hutchinson his Deputy.

SIR,

VHereas you tax me in your Letter
 for conniving and taking Part
 with Burwell and Heath, or with Church;
 you do me open Wrong. I have done,
 and yet will do to the utmost of my
 Power, in pursuit of the Lords Order, so
 far as that will bear me out, but no fur-
 ther, and shall likewise follow your In-
 structions so far forth as they are bounded
 within the Limits of the severall Orders of
 the

' the Lords : And for my better Satisfac-
 ' on herein, I have been at Council about it,
 ' how far I may go. In the first Place, con-
 ' cerning Church, I have been with him ;
 ' Goods there are few or none to be gotten ;
 ' I am sure far short of Satisfaction ; they
 ' were wise enough to Secure them, and
 ' convey them out of the Way ; and he de-
 ' nies me not, but bids me come and take
 ' what I please and welcome, but withal bids
 ' me be sure I have more Authority for it,
 ' than your private Letter, or Mr. Ogle's
 ' Instructions ; for he saith the Orders of the
 ' Lords concerns him nothing at all, he is
 ' his not so much as once named in it, be-
 ' sides he saith he Sees no Reason you should
 ' Seize his Goods that never medled with
 ' any of yours, and if you be above Ground
 ' he will have Satisfaction from me, or else
 ' Boulden shall pay for it. For the Office
 ' he bids me Seize when I please he hin-
 ' ders it not, he saith you might have done
 ' it long since if you would. True it is
 ' I might Seize on the Office and lock up
 ' the Doors as the Committee did once be-
 ' fore, intending to Seize of Mr. Newhouse
 ' the Register's Place, but what were they the
 ' better ; the Business of the County was ob-
 ' struct-

' instructed for a Time; and at length, by the
 ' Country's Means made to the Committee,
 ' the Doors were opened, and he still enjoys
 ' the Profits thereof; albeit he is made a
 ' Delinquent, and hath a Charge exhibited
 ' against him both at York and Durham,
 ' and his Lands sequestred all this Time.
 ' Church saith, what he received he hath
 ' paid over to the Chancellor himself, or for
 ' the Relief of his Children, by his special
 ' Command; neither did he ever see any
 ' Order commanding him to execute the
 ' Place, and be accountable to Mr. Smart:
 ' He is no Servant to the Chancellor a-
 ' gainst his Will, and Scorns to be a Slave
 ' or Servant to Smart or Ogle, neither doth
 ' he believe the Parliament will ever com-
 ' pel him there to, being so absolutely against
 ' the Liberty of the Subject. If you in-
 ' tend to do any good of the Office, you
 ' must get a Civilian to come down and
 ' execute the Place, and procure him an
 ' Ordinance for the enabling him for exer-
 ' cising the Jurisdiction (for Mr. Church will
 ' not for you) which will never satisfy the
 ' Party for his Pains, unless the Times mend
 ' and grow better than at present. For no
 ' Man does any Thing, but what meer Ne-
 ' cessity

necessity drives him to: So you see what
 Profit is to be expected, if the Office should
 be Seized upon. Yet, give me leave to
 give you such Satisfaction as my Council
 gave to me: They instanced to me in two
 Cases, that such an Office could not be
 Seized upon by Law: First, Anno 25.
 Hen. 8. Dyer Fol. 7. Nu. 10. The Case of
 the Office of Fillize. Ph. Shelly; That a
 Fillizer's Office cannot be extended upon
 a Statute, although it be a Freehold, up-
 on which an Assize lies, because it is an
 Office of Confidence; for it cannot be Sold;
 it cannot be alienated, for as much as he
 is an Officer to the Court, and doth the
 Business of the Court, and not his own.
 The next is, Plowd. Fol. 378. Sir Henry
 Nevil's Case. One grants an Office of the
 Custody and Keeper of a Park, and of the
 Deer in the Park, and a Rent of 3 l. 10
 sh. for the Exercise thereof, out of a Man-
 nor, to Two, for their Lives: The one of
 them is attainted of Treason; the King
 shall neither have the Office nor the Rent,
 for the same Reason in the foregoing
 Case alledged. And in the Case of Sir
 Henry Nevil's, Fol. 380. if both the Gran-
 tees had been attainted, this should not
 for-

‘ feitt the Office; the Reasons you may see
 ‘ in the Case at large.

‘ As for the Power of the Lords, Church
 ‘ faith, he disputes it not; but there is not
 ‘ to much as the Office mentioned in the
 ‘ Lords Order of May 22d, 1646, to which
 ‘ the latter Order hath Relation, (for the
 ‘ very Words are, to do according to the
 ‘ former Order of May 22d, 1646.) much
 ‘ less the Seizure thereof expressed.

‘ And whereas you say, Church is both
 ‘ a Fool and a Knave in thinking you would
 ‘ be his Messenger or Sollicitor, to sollicit
 ‘ the Lords on his Behalf, by giving in
 ‘ his Answer, which you say is both Scand-
 ‘ alous and full of Lies; methinks you
 ‘ should the rather have done it, that the
 ‘ Fellow might have been punished, and
 ‘ your Cause would thereby be further
 ‘ strengthned.

‘ And where you say, That Burwell did
 ‘ unjustly and maliciously grant a Sequestra-
 ‘ tion, meerly to defraud you of your Right;
 ‘ how can that be? Unjustly it cannot be,
 ‘ because it was warranted by Law; (Dr.
 ‘ & Student Lib. 2. Cap. 36. in the End) and
 ‘ maliciously to you it could not well be,

‘ because the Lords bestowed it upon you
 ‘ afterwards, and not before.

‘ And in the Close of your Letter, you
 ‘ bid me be sure to go no further than the
 ‘ Order will warrant me; I have been at
 ‘ Councel about it, and shewed them both
 ‘ the Order and Church’s Answer thereto,
 ‘ and have had Opinion in both; and there-
 ‘ fore, unless you obtain an Order to seize
 ‘ on Church or his Estate, I shall not meddle:
 ‘ And for to lock up the Office Door, I
 ‘ can do it to-morrow, by Vertue of the
 ‘ Lords Order, but, shall be never the better,
 ‘ unless you get one to execute the Place, as
 ‘ above said.

‘ As for your Deputy whom you appoin-
 ‘ ted, he saith he will not, nor dare meddle
 ‘ with it, being a Place of Judicature: For
 ‘ if they may prove Wills before him, they
 ‘ may as well prove them one Neighbour
 ‘ with another at Home, and never come
 ‘ as far as Durham for it: Besides the Coun-
 ‘ try is a little wiser than to throw away
 ‘ their Money about the Probate of Wills
 ‘ and granting Administrations which are not
 ‘ good in Law; and which they will be
 ‘ no better by.

Mr.

‘ Mr. Heath gives me the same Answer
 ‘ in Effect; for he saith he was but meerly
 ‘ Instrumental in the Receipt of the Monies;
 ‘ for he being an Officer of the Court, by a
 ‘ Decree in Chancery it was paid into the
 ‘ Court, and by the same Authority paid
 ‘ out again; so that he meddled no further
 ‘ than as an Officer of the said Court,
 ‘ being commanded so to do by the Judge
 ‘ thereof. He hinders me not to meddle
 ‘ with any Thing under Sequestration; but
 ‘ to meddle with any Thing else (he hav-
 ‘ ing already compounded for his Estate)
 ‘ he will stand upon his Defence, and bids
 ‘ me at my Peril do it. He saith, you
 ‘ had Time enough to look after it, whilst
 ‘ his Estate was under Sequestration; and
 ‘ that Mr. Ogle was in the Country about
 ‘ it, and with the Committee also.

Another of Mr. SMART's LETTERS.

To my loving Friends, Mr. Tho. Marshall,
 Mr. Will. Widrington, and Mr. William
 King, at Durham. Leave this at Jane
 Hopper's House. The Post is paid 6 d.

‘ I Wrote to you by the last Post, I doubt
 ‘ not but my Letters came to your Hands.
 The

' The last Saturday I got a short Note from
 ' Lin, That Mr. Tho. Marshall was going
 ' having a fair Wind towards Durham, upon
 ' Thursday the 14th of Sept. and f he came
 ' before the Thursday following, being the
 ' 21st of September, I wonder you wrote not
 ' to me by the Post, which came to Lon-
 ' don the last Monday, the 25th Day of Sept.
 ' For want of Knowledge whereof, I am in
 ' a most miserable Condition, neither know
 ' I what to do till I hear from him.

' Let Will. Widrington come with the
 ' Richmond Carriers, and bring what Money
 ' he can get in all Places, Bowden, Witton;
 ' my Stipends, and 100 l. Dividend at Dur-
 ' ham, and whatsoever else can be gotten of
 ' Tennants in the Country, unless my Bro-
 ' ther Marshall can find a readier Way of
 ' present Conveyance, from whom I would
 ' be fully informed concerning my Brother
 ' Mr. Jo. Smart, and all other Matters con-
 ' cerning the Country.

' The Treaty between the K. and the Parlia-
 ' ment goeth on very well in the Isle of Wight.
 ' The King denieth nothing they Request;
 ' and he hath knighted Mr. Hollis and Mr.
 ' Glin. The Lord send a good Conclusion,

that

‘ that we may have Peace and Justice. Fare
 ‘ ye well in the Lord Christ.

Your loving Friend,

Septem. 26, 1648. PETER SMART.

Mr. SMART's last LETTER.

Loving Friends, Ro. King, and W. Widrington,

1. **I** Received the 31st of Oct. your Letters dated the 26 of Octob. by which I had the first certain Notice of my Brother Thomas Marshall's coming forth towards London, whom I have long expected, but yet I cannot learn what is become of him.

2. I am in a most miserable Condition, for want of his Presence at London, both I am in extreme want of Money, a good quantity whereof he received at Witton and elsewhere, to bring with him : And also because none so well as he can handle all my Business with the Sadler Hutchinson, Mrs. Oxbridg, Mrs. Harmer, and my Son Ogle, and other matters concerning the Committee at Durham, my printed Papers, and the two Lilborns strange Opposition, by putting in Gilbert Marshall and Ant. Smith into the Receiver's Office again which they

they had given over ; likewise concerning the Leafes of Bennet and Smith of Ash.

4. It may be my Brother John Smart can inform me in what Ship he came and what is become of him, and likewise what Quantity of Money he received, and should have brought, that Mr. Gil. Marshall, and Mr. Smith may send me presently by Bill of Exchange my 100 l. Dividend, and 25 l. or 33 l. 6 sh. 8 d. Stipends.

5. I have discharged my Son Ogle for intermeddling hereafter with any Money belonging to Me; for he hath dealt falsely with me, to my utter undoing, therefore whatsoever is now, or hereafter shall be paid to him, must be paid over again to Me. And this I would have all Men take Notice of, that I trust him not.

6. You wrote to me that Mr. G. Lilborne, and Mr. Rich. Lilborne, with Mr. Grey and Capt. Shaw were coming to London about the Sale of the Dean and Chapters Lands : I wrote to my Brother Marshall, not knowing whether he was come away, and to you two, that it was out of the Committees Power or the Parliament, to sell or dispose of my Prebend, or any thing belonging thereunto, I having never been

a Delinquent against any Parliament, and consequently nothing appertaining to Me was either sequestred or sequestrable; and consequently no Ordinance of Parliament could justly take either the whole, or any Part thereof from Me.

7. Of that Letter I wrote to you, to take a Copy and keep it, and then deliver it first to one Mr. Lilborn, and then to the other his Brother, that they might see what wrong they did me, in taking away my Dividend because no Leases were sealed; Fines originally being no Part of the Dividend, but Vacations of the Deanery and Prebendaries, all which were due to me alone, since they are void or sequestred.

If that Letter of mine miscarried, and never came to your Hands there was great falsehood and treachery therein; of all these 8 points send me particular Answers, and whatsoever concerns me, that I may accordingly defend myself. GOD bless us all.

Your loving Friend,
PETER SMART.

Oct. 31. 1648.

This is a proper Place, to produce Dr. Cofin's Character of Smart, after his defeating every Accusation raised against him, from

his Defence of himself in Dr. Heylin's Examen Historicum, pag. 285.

“ Mr. Smart, who had been Schoolmaster,
 “ and after became Prebendary of Durham,
 “ was an old Man of a most forward, fierce,
 “ and unpeaceable Spirit.

“ Many of the Lords said openly that
 “ Mr. Smart had abused the House of Com-
 “ mons, with a causeless Complaint against
 “ me, whereupon my Lord the Earl of
 “ Warwick, was pleased to bring me an
 “ Order of the Lords House, whereby I
 “ had Liberty granted me to return unto
 “ my Places of Charge in the University, or
 “ elsewhere, till they sent for me again,
 “ which they never did.

Mr. Neal's Account of Peter Smart, pag.
 209. of the 2d Volume.

“ Mr. Peter Smart one of the Preben-
 “ daries of Durham, and Minister in that
 “ City, was imprisoned by the High Com-
 “ mission of York this Summer, for a Ser-
 “ mon preached from these Words, “ I hate
 “ all those that hold Superstitious Vanities,
 “ but thy Law do I love ; in which he
 “ took occasion to speak against Images and
 “ Pictures, and the late pompous Innovations.
 “ He was confined four Months, before the
 “ Commissioners exhibited any Articles a-
 “ gainst him, and five *more* before any Pro-
 ctor

'ctor was allowed him. From York he
 ' was carried up to Lambeth, and from
 ' thence back again to York, where he
 ' was deprived of his Prebendary, degraded,
 ' excommunicated, fined Five Hundred
 ' Pounds, committed close Prisoner, where
 ' he continued Eleven Years, till he was
 ' set at Liberty by the Long Parliament
 ' in 1640. He was a Person of grave and
 ' Reverend Aspect, but died soon after his
 ' Release, *the long Confinement having con-*
 ' *tributed to shorten his Days.*

Mr. Fuller's Account of Peter Smart, in
 his Church History, pag. 173. No. 35.

' Mr. Smart a Prebendary of the Church,
 ' one of grave Aspect and Reverend Presence,
 ' sharply inveighed, in a Sermon against
 ' these Innovations, taking for his Text,
 " I hate all those that hold superstitious Va-
 " nities, but they Law I love.

' Hereupon he was kept Prisoner four
 ' Months by the High Commission of York,
 ' before any Articles were exhibited against
 ' him, and 5 Months before any Proctor was al-
 ' low'd him; hence he was carried to the High
 ' Commission at Lambeth, and after long
 ' trouble remanded to York, fined Five
 ' hundred Pounds, committed to Prison, or-
 ' dered to recant, and for neglect thereof, fined
 ' again, Excommunicated, Degraded, and De-
 ' prived, his Damage (as brought in) a-
 ' mounted to many thousand Pounds.

Mr

Mr. Fuller's RECANTATION.

“ However if any thing that I delivered
 “ in my Church History (relating therein
 “ a Charge drawn up against him, (Dr. Cofin) for
 “ urging some Ceremonies, without inserting his
 “ Purgation, which he effectually made, clear-
 “ ing himself from the least Imputation of
 “ any fault) hath any way augmented this
 “ Opinion, I humbly crave Pardon of him
 “ for the same.

Fuller's Worthies page 295.

“ Mr. Neil, Forgery is a Crime most
 “ unbecoming so holy a Person as a Minister
 “ of the Gospel; which who can deny you to be;
 “ I conjure you by that Gospel, first, as becomes
 “ a Christian, privately to repent that so openly
 “ committed by you in the Case of this unwor-
 “ thy Person Smart, and after GOD has
 “ planted a due Sense of such Heinousness,
 “ in your heart, to open the same with Can-
 “ dor and Since ity to the Congregation over
 “ which you preside, as the most proper Ex-
 “ pedient to entitle you to his Pardon
 “ for so dangerous an Attempt as the de-
 “ bauching their precious Consciences. And
 “ I urge this in the most affectionate Manner,
 “ with the Addition of my hearty Prayers,
 “ that it may please GOD to bring into
 “ the way of Truth all such as have erred
 “ and are deceived ; as does that Excellent
 “ Church at least thrice every Week, in her
 “ holy Liturgy.

18 AP 68
 FINIS